

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**THOMAS R TITUS**  
Claimant

**APPEAL NO: 09A-UI-10009-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACH FOOD COMPANY INC**  
Employer

**OC: 06/14/09**  
**Claimant: Appellant (1)**

Section 96.6-2 - Prior Adjudication

**STATEMENT OF THE CASE:**

Thomas R. Titus (claimant)) appealed a representative's July 1, 2009 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment with ACH Food Company, Inc. (employer). Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on July 27, 2009. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. The employer responded to the hearing notice and indicated that William Nelson would participate as the employer's representative. When the administrative law judge contacted Mr. Nelson for the hearing, he agreed that the administrative law judge should make a determination based upon a review of the information in the administrative file. Based on a review of the information in the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Is there a prior determination on the merits of this appeal that is binding on the parties and the outcome of this appeal?

**FINDINGS OF FACT:**

The claimant established a claim for unemployment insurance benefits effective June 1, 2008. An Agency representative issued a decision dated June 26, 2009 (reference 01). That decision concluded that the claimant was not eligible for benefits due to a separation on May 20, 2008 found to be disqualifying. The claimant appealed that decision; a hearing was held before another administrative law judge on the merits of the appeal on August 6, 2008, and in appeal number 08A-UI-06043-H2T a decision was issued on August 8, 2008 affirming the disqualification decision. No appeal was made of that decision and it has now become final.

The claimant established a second claim year effective June 14, 2009. Another representative's decision was issued dated July 1, 2009 (reference 01), the subject of this appeal. That decision concluded that the prior disqualification determination regarding the May 20, 2008 was still in full force and effect. No showing was made of any requalifying wages earned by the claimant, and

the Agency records show no wage credits earned by the claimant after his separation from this employer.

**REASONING AND CONCLUSIONS OF LAW:**

If a prior determination has been made on the same issue and the adversely affected party fails to make a timely appeal of a representative's decision, the decision on that issue has become final and is not subject to further review, and will be binding on the parties in related proceedings. Iowa Code § 96.6-2.

If the claimant had a dispute with whether or not she should have been disqualified as a result of the separation from the employer, then she needed to have filed an appeal from that decision within the appeal period for that decision. Iowa Code § 96.6-2; Beardslee v. Iowa Department of Job Service, 276 N.W.2d 373 (Iowa 1979). The establishment of a new claim year does not negate or erase the affect of the prior determination. As the claimant did not make a timely appeal from the original disqualification decision, the administrative law judge now lacks jurisdiction to make a determination with respect to the nature of the appeal, regardless of whether the merits of the appeal would be valid. See, Beardslee, supra; Franklin v. Iowa Department of Job Service; and Pepsi-Cola Bottling Company v. Employment Appeal Board, 465 N.W.2d 674 (Iowa App. 1990).

**DECISION:**

The representative's July 1, 2009 decision (reference 01) is affirmed. The claimant is not qualified to receive unemployment insurance benefits until he has satisfied the requalification requirements by earning ten times his weekly benefit amount, if he is then otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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