

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERRY M RODRIGUEZ
Claimant

APPEAL NO. 14A-UI-09466-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRI CITY ELECTRIC CO OF IOWA
Employer

OC: 08/24/14
Claimant: Respondent (1-R)

Iowa Code Section 96.6(3) – Prior Adjudication

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 9, 2014, reference 03, decision that allowed benefits to the claimant provided she was otherwise eligible, and that held the employer's account could be charged for benefits, based on an Agency conclusion that the claimant's eligibility for benefits and that employer liability for benefits in connection with the April 2013 separation had been adjudicated as part of a prior claim and that the prior decision remained in effect. After due notice was issued, a hearing was held on October 2, 2014. Claimant participated. Attorney Mikki Schiltz represented the employer and presented testimony through Maria Schirm and Kirby Zam. The hearing in this matter was consolidated with the hearing in Appeal Number 14A-UI-09465-JTT. Exhibits One through 10 and A were received into evidence.

ISSUE:

Whether the claimant's eligibility for benefits and that employer liability for benefits in connection with the April 2013 separation has been adjudicated as part of a prior claim and whether that the prior decision remained in effect.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant separated from the employment on April 19, 2013. The claimant established a claim for benefits that was effective June 9, 2013. On June 25, 2013, a claims deputy entered the reference 01 decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits, based on an agency conclusion that the claimant had been discharged for no disqualifying reason. In the decision, the Agency erroneously referenced June 10, 2013 as the separation date, rather than April 19, 2013. The employer elected not to appeal the decision by the July 5, 2013 deadline and the decision became a final agency decision. The claimant established a new claim for benefits that was effective August 24, 2014. The claimant has not returned to perform additional work since she separated from the employment.

REASONING AND CONCLUSIONS OF LAW:

Unless appealed in a timely manner and reversed on appeal, a finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of Iowa Workforce Development, administrative law judge, or the employment appeal board, is binding upon the parties in proceedings brought under this chapter. See Iowa Code section 96.6(3) and (4).

The claimant's eligibility for benefits and the employer's liability for benefits in connection with the 2013 separation was previously adjudicated as part of the prior claim year. The June 25, 2013, reference 01, decision continues to bind the parties in the new claim year. The claimant is eligible for benefits provided she is otherwise eligible. The employer's account may be charged for benefits. The separation date is noted as April 19, 2013, not June 10, 2013.

DECISION:

The claims deputy's September 9, 2014, reference 03, decision is affirmed. The claimant's eligibility for benefits and the employer's liability for benefits in connection with the 2013 separation was previously adjudicated as part of the prior claim year. The prior decision continues to bind the parties in the new claim year. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

The employer raises the issue of whether the payments the employer made to the claimant as severance, and reported to Workforce Development as wages, should be treated as base period wages for purposes of determining the claimant's eligibility for benefits during a second benefit year that started August 24, 2014. That matter is remanded the Benefits Bureau for adjudication.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs