

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAMINE DEKO
Claimant

APPEAL NO. 10A-UI-05316-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALL CLEAN OF IOWA INC
Employer

**Original Claim: 03/14/10
Claimant: Appellant (1)**

486 IAC 3.3(6) - Finality of Decision

STATEMENT OF THE CASE:

Lamine Deko, appealed a decision dated March 24, 2010, reference 02, that concluded that a decision had been made on his July 9, 2009, separation from employment and remained in effect. A telephone hearing was held on May 26, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer, as the employer was unavailable to take the call.

ISSUE:

Is the decision regarding the claimant's separation from employment on July 9, 2009, final?

FINDINGS OF FACT:

The Agency issued a decision on August 8, 2009, that stated Lamine Deko was denied benefits because he was discharged for misconduct on July 9, 2009.

Deko appealed the decision denying him benefits, but he failed to call in for the hearing held on September 9, 2009, and therefore did not participate in the hearing. A decision by an administrative law judge in appeal 09A-UI-12141-ST issued that day denied him benefits.

Deko appealed the decision of the administrative law judge to the Employment Appeal Board. The Employment Appeal Board issued a decision in appeal 09B-UI-12141 on October 6, 2009, which also denied Deko benefits. The decision stated it would become final if Deko did not appeal it to district court within 30 days. He did not appeal to district court.

Deko filed for unemployment insurance benefits again effective March 14, 2010, because he had worked for Farmland Foods and had been paid enough wages to satisfy the disqualification imposed. He is currently receiving benefits.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the decision of the Employment Appeal Board in appeal 09B-UI-12141, dated October 6, 2009, became final, which prevents Deko from contesting his being denied benefits based on the separation from employment on July 9, 2009, again.

Iowa Rule 486 IAC 3.3(6) states that the appeal board's decision shall become the final decision 30 days after the decision is mailed to all interested parties of record, unless a petition for judicial review is filed in the appropriate district court within that 30 days.

Since the decision of the Employment Appeal Board was not appealed to district court within 30 days, that decision is final and cannot be reheard. Deko is not allowed to have the matter decided again simply because he filed a new claim in a different benefit year.

Since Deko already requalified when he filed his claim effective March 14, 2010, no decision really should have been issued to him, as the decision has no effect on his current eligibility for benefits. Instead, the employer should have been informed that its account was not subject to charge based on the prior decision that had been issued regarding the Deko's separation from employment.

DECISION:

The unemployment insurance decision dated March 24, 2010, reference 02, is affirmed. The decision denying Deko's benefit based on his separation on July 9, 2009, is final. He has since requalified, however.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw