

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENNIS L YADDOF
Claimant

APPEAL NO. 11A-UI-13037-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROBERT L JOHNSON TRUCKING
Employer

**OC: 09/11/11
Claimant: Appellant (1)**

Section 96.6-3 – Timeliness of Appeal and Finality of Decision
871 IAC 43.3(7) – Time for Appealing Employment Appeal Board Decision

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 28, 2011, reference 01, that concluded a final decision on the claimant's separation from employment on September 3, 2010, was made on a prior claim and remained in effect. A telephone hearing was held on October 27, 2011. 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.

ISSUE:

Was a final decision on the claimant's separation from employment on September 3, 2010, made on a prior claim and does it remain in effect?

FINDINGS OF FACT:

The claimant appealed an unemployment insurance decision dated October 12, 2010, reference 01, that concluded he was disqualified from receiving unemployment insurance benefits because he was discharged for work-connected misconduct on September 3, 2010.

After a telephone hearing was held on December 1, 2010, an administrative law judge issued a decision on December 2 in appeal 10A-UI-14231, which affirmed the disqualification decision. The claimant appealed that decision to the Employment Appeal Board, but on April 25, 2011, the disqualification was affirmed in appeal 10B-UI-14231. He did not appeal the decision of the Employment Appeal Board to district court within 30 days and the decision became final.

The claimant filed a new claim for unemployment insurance benefits with an effective date of September 11, 2011, after his benefit year expired. There is no evidence that the claimant had been paid wages for insured work equal to ten times his weekly benefit amount since his discharge on September 3, 2010.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the decision of the Employment Appeal Board in appeal 10B-UI-14231, dated April 25, 2011, disqualifying the claimant became final, which prevents the parties from adjudicating the issue again.

Iowa Code § 96.6-3 provides that: “The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.” The appeal board rules provide: “The appeal board’s decision on an application for rehearing shall be final and without further review 30 days after the date the decision is mailed to the parties of record, unless within that 30 days a petition for judicial review is filed in the appropriate district court.” 486 IAC 43.3(7).

The Iowa Supreme Court has ruled that appeals from unemployment insurance decisions must be filed within the time limit set by statute and become final in the absence of a timely appeal. Franklin v. IDJS, 277 N.W.2d 877, 881 (Iowa 1979); Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979).

In the present case, the claimant did not appeal the decision of the Employment Appeal Board to district court within 30 days and the decision became final. The claimant is not allowed to have the matter decided again simply because he filed a new claim in a different benefit year.

DECISION:

The unemployment insurance decision dated September 28, 2011, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs