

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTI L SPENCER
Claimant

APPEAL NO. 11A-UI-05874-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

**OC: 01/16/11
Claimant: Appellant (1)**

Section 96.6-2 - Prior Adjudication

STATEMENT OF THE CASE:

Kristi L. Spencer (claimant) appealed a representative's April 20, 2011 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a December 2010 separation from employment with Aventure Staffing & Professional (employer) because a prior determination had been made on that separation and was still in effect. Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on May 31, 2011. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. The employer responded to the hearing notice and indicated that Cyd Hall would participate as the employer's representative. When the administrative law judge contacted the employer for the hearing, Ms. Hall agreed that the administrative law judge should make a determination based upon a review of the available information. Based on a review of the available information 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 January 17, 2010. After her December 2010 separation from the employer, she reopened the claim by filing an additional claim effective December 19, 2010. An Agency representative issued a decision dated January 13, 2011 (OC 01/17/10 – reference 01). That decision concluded that the claimant was not eligible for benefits because of the circumstances of the December 2010 separation. The claimant appealed that decision to the Appeals Section, and a hearing was conducted on that appeal on February 22, 2011 in case 11A-UI-00827-MT. On February 23, 2011, the administrative law judge assigned to that case issued a decision affirming the disqualification. No appeal was made of that administrative law judge's decision to the Employment Appeal Board, and it has now become final.

Upon expiration of her 2010 claim year as of January 15, 2011, the claimant established a second claim year effective January 16, 2011. Another representative's decision was issued dated April 20, 2011 (OC 01/16/11 – reference 02), the subject of this appeal. That decision indicated that the prior disqualification was also binding on the new claim year.

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 effect of the prior determination. As the claimant did not make a timely appeal from the original disqualification decision as affirmed by the prior administrative law judge's decision in 11A-UI-00827-MT, this 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 April 20, 2011 decision (OC 01/16/11 – reference 02) is affirmed. As determined in the prior adjudication, from the point of the December 2010 separation, including into the subsequent benefit year, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is then otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw