

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID L JACOBSON
Claimant

APPEAL NO. 08A-UCFE-00004-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

US POSTAL SERVICE
Employer

**OC: 12/02/07 R: 03
Claimant: Appellant (1)**

Section 96.6-2 - Previously Adjudicated

STATEMENT OF THE CASE:

David L. Jacobson (claimant) appealed a representative's March 11, 2008 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits because the reasons for his November 19, 2007 employment separation from the U.S. Postal Service (employer) had been previously adjudicated. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 31, 2008. The claimant participated in the hearing with his union representative, Randy Kruger. Angie Pettinger and Dan Chambers appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Have the reasons for the November 19, 2007 employment separation already been adjudicated?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of December 2, 2007. On January 2, 2008, a representative's decision was mailed to the claimant and employer indicating the claimant was not qualified to receive unemployment insurance benefits as of December 2, 2007, because he had been suspended for disqualifying reasons.

The claimant received the representative's decision on January 4, 2008. When the claimant contacted his local workforce representative, he learned he was not qualified to receive benefits because he had been suspended for disqualifying reasons. Since the claimant had not been discharged, he incorrectly assumed he did not have to do anything.

After the employer informed the claimant his suspension would turn into a discharge, the claimant reopened his claim during the week of February 24, 2008. On March 11, 2008 another representative's decision was mailed to the claimant. This decision informed him that the reasons for his employment separation had already been adjudicated and he was still disqualified from receiving benefits. The claimant appealed on March 14, 2008.

REASONING AND CONCLUSIONS OF LAW:

A final order made by a representative of the department is binding upon the parties. A representative's decision is final unless a timely appeal is filed. Iowa Code § 96.6-2. When the claimant did not file an appeal by January 12, 2008 from the January 2, 2008 representative's decision, the decision holding the claimant disqualified from receiving benefits based on his November 19, 2007 employment separation became the final decision in this matter.

A claimant is not qualified to receive unemployment insurance benefits if an employer suspends or discharges the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The January 2 and March 11, 2008 decision were both based on the reasons for the claimant's November 19, 2007 employment separation. The claimant's employment separation was initially labeled a suspension (without an ending date) that the employer later decided was a permanent employment separation. Since the claimant's employment separation occurred on November 19 and this was addressed in a January 2, 2008 decision, this separation has been previously adjudicated. Also, based on the fact the claimant did not file a timely appeal from a January 2, 2008 decision (see decision for appeal 08A-UI-UCFE-00003-DWT) the claimant is not qualified to receive benefits until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

DECISION:

The representative's March 11, 2008 decision (reference 02) is affirmed. The November 19, 2007 employment separation was previously adjudicated or addressed in a representative's January 2, 2008 decision that became the final decision in this matter. As a result, the claimant remains disqualified from receiving unemployment insurance benefits as of December 2, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css