

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AUNTONIA R ZAMORA
Claimant

APPEAL NO. 11A-UI-11439-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC
Employer

OC: 07/10/11
Claimant: Appellant (1)

871 IAC 24.19(1) – Determination and Review of Benefit Rights
871 IAC 24.28(6-8) – Prior Adjudication
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

Auntonia Zamora (claimant) appealed a representative's August 17, 2011 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because her separation from Stream International (employer) was made on a prior claim year and that decision remains in effect. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 26, 2011. The claimant participated personally. The employer participated by Staci Albert, human resources generalist, and Bangone Chantghavong, human resources coordinator.

ISSUE:

The issue is whether the appeal was filed in a timely manner and, if so, whether the matter has been previously adjudicated.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The parties agree that the decision at issue has been adjudicated in a prior claim year, affirmed by an administrative law judge on June 22, 2011, and that decision has become final.

A decision was mailed to the claimant's address of record on August 17, 2011. The claimant did receive the decision and mailed an appeal on August 20, 2011. The appeal was never received. The claimant faxed an appeal on August 31, 2011

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant mailed an appeal within the time period allowed by law. Therefore, the appeal shall be accepted as timely.

The next issue is whether the matter has been previously adjudicated. The administrative law judge concludes it has.

871 IAC 24.28(6) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(6) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by a representative of the department and such decision has become final.

871 IAC 24.19(1) provides:

Claims for benefits shall be promptly determined by the department on the basis of such facts as it may obtain. Notice of such determination shall be promptly given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual or potential disqualifying issues relevant to the determination. . . . The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an

appeal may be taken. Unless the claimant or any other such party entitled to notice, within ten days after such notification was mailed to such claimant's last-known address, files with the department a written request for a review of or an appeal from such determination, such determination shall be final.

The issue presented was resolved in a prior claim year and affirmed by administrative law judge on June 22, 2011. The current decision referring to the prior claim year decision is affirmed.

DECISION:

The representative's August 17, 2011 decision (reference 01) is affirmed. The claimant's appeal is timely. The prior decision on the separation remains in effect.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw