

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY N NEHLS
Claimant

APPEAL NO. 12A-UI- 02848-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE CHEESECAKE FACTORY REST INC
Employer

OC: 03/04/12
Claimant: Appellant (1)

Iowa Code Section 96.6(4) – Previously Adjudicated Issue

STATEMENT OF THE CASE:

Ashley Nehls filed a timely appeal from the March 14, 2012, reference 03, decision that denied benefits base on an Agency conclusion that her June 2011 separation from the employer had been adjudicated in connection with a prior claim and that the prior decision remained in effect. After due notice was issued, a hearing was commenced on August 5, 2011 and concluded on April 18, 2012. Ms. Nehls participated. Rich Gauthier, General Manager, represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 12A-UI-02847-JTT. Exhibits One, Two, A and Department Exhibits D-1 and D-2 were received into evidence.

ISSUE:

Whether the separation from the employment has been previously adjudicated and whether that adjudication continues to bind the parties.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ashley Nehls separated from her employment with The Cheesecake Factory in June 2011 and has not returned to perform additional work for the employer. On August 11, 2011, a Workforce Development representative entered a reference 09 decision that disqualified Ms. Nehls for unemployment insurance benefits based on the agency's conclusion that Ms. Nehls had been discharged for misconduct in connection with the employment. Ms. Nehls did not appeal the decision in a timely manner and the disqualification decision became a final agency decision. See Appeal Number 12A-UI-02847-JTT.

Ms. Nehls later established a new claim for benefits that was effective March 4, 2012. On March 14, 2012, a Workforce Development representative mailed to Ms. Nehls a March 14, 2012, reference 03, decision that denied benefits based on an Agency conclusion that Ms. Nehls' June 2011 separation from The Cheesecake Factory had been adjudicated in connection with the earlier claim and that the earlier decision remained in effect.

REASONING AND CONCLUSIONS OF LAW:

Unless appealed in a timely manner and reversed on appeal, a finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of Iowa Workforce Development, administrative law judge, or the employment appeal board, is binding upon the parties in proceedings brought under this chapter. See Iowa Code section 96.6(3) and (4).

The evidence in the record establishes an August 11, 2011 adjudication concerning Ms. Nehls' separation from the employer. That decision became a final agency decision and was binding upon the parties. The August 11, 2011, reference 09 continues to bind the parties in connection with the new claim. Ms. Nehls is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount since separation from the employment. Ms. Nehls would have to meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The Agency representative's March 14, 2012, reference 03 is affirmed. The June 2011 separation has been adjudicated in connection with a prior claim and continues to bind the parties. The claimant remains disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount since separation from the employment. The claimant would have to meet all other eligibility requirements. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css