

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANNESSA A TIPTON**

Claimant

**APPEAL NO. 12A-UI-09077-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COSMOS SUNGLASSES INC**

Employer

**OC: 04/22/12**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.28(6) – Previously Adjudicated Issue

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated July 23, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 26, 2012. Claimant participated. Employer failed to respond to the hearing notice and did not participate. Exhibit A was admitted into evidence. Employer called after the hearing was over to request participation. Employer failed to read and follow instructions on the hearing notice by calling in the name and number of a representative.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer. The issue in this matter is whether the claim was previously adjudicated.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 9, 2012. This matter was adjudicated in a decision dated July 20, 2012, reference number 01. That matter is pending on appeal.

**REASONING AND CONCLUSIONS OF LAW:**

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.

In this matter, the evidence has established that the claim was previously adjudicated by decision of July 20, 2012 reference 01. The bureau is without authority to rehear this matter as a decision was issued on the merits and is pending on appeal. The issue cannot be adjudicated a second time.

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

At issue is a request to reopen the record made after the hearing had concluded. The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

**DECISION:**

The decision of the representative dated July 23, 2012, reference 01, is moot. This matter has been previously adjudicated. The prior decision is controlling.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/pjs