

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA R RARDIN
Claimant

APPEAL NO. 09A-UI-01946-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ELECTRONIC DATA SYSTEMS
CORPORATION**
Employer

**OC: 01/04/09 R: 02
Claimant: Appellant (2)**

871 IAC 24.28(6) – Previously Adjudicated Issue

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 29, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 27, 2009. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate. Exhibit A was admitted into evidence.

ISSUE:

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 December 18, 2007.

Claimant quit on December 18, 2007 because of harassment. Claimant did not work for the employer after that date. Claimant did not separate from employment on February 29, 2008.

This matter was adjudicated in a decision dated January 25, 2008 reference number 01, and by appeal number 08A-UI-01263-ET and affirmed by the Employment Appeal Board 08B-UI-01263. There is no separation date February 29, 2008. Claimant's employment was severed on December 18, 2007 and that date has been adjudicated and is now final.

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 January 25, 2008 reference 01 with appeal decision February 25, 2008 in appeal number 08A-UI-01263-ET. The bureau is without authority to rehear this matter as a decision was issued on the merits and has become final after appeal. The separation date of December 18, 2007 cannot be adjudicated a second time. No separation occurred on February 29, 2008. Claimant did not work for the employer after December 18, 2007.

DECISION:

The decision of the representative dated January 29, 2009, reference 01, is reversed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements. This matter was previously adjudicated and the bureau is without authority to reverse a prior allowance of benefits.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs