

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JARON BALDWIN
Claimant

NORDSTROM INC.
Employer

APPEAL 23A-UI-09351-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/17/23
Claimant: Appellant (1)

Iowa Code § 96.6-3 – Filing Appeals
871 IAC 24.28(6-8) – Prior Adjudication

STATEMENT OF THE CASE:

On October 3, 2023, claimant/appellant filed an appeal from the September 27, 2023, reference 01, decision that denied benefits based a decision on the May 9, 2023 separation was made on a prior claim and that decision remains in effect. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held October 18, 2023. The claimant participated personally. The employer did not participate. Administrative notice was taken of the June 6, 2023 (reference 02) decision issued during the claim year with an effective date of June 26, 2022. Administrative notice was also taken of the decision issued in appeal 23A-UI-06079-AR-T.

ISSUE:

Has the issue been previously adjudicated?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The issue presented was resolved in a prior claim year (original claim date June 26, 2022) as the representative's decision dated June 6, 2023, reference 02. The decision found claimant was discharged from his employment on May 9, 2023 and denied claimant benefits. Claimant appealed the decision. A hearing was scheduled for July 6, 2023, at 8:00 a.m. Claimant did not appear and a default decision was issued in appeal 23A-UI-06079-AR-T. Claimant did not appeal the decision to the Employment Appeal Board or the District Court of Iowa. Claimant has not earned ten times his weekly benefit amount in insurable wages since his separation from the employer. (WAGE-A).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the decision at issue has been adjudicated in a prior claim year and that decision has become final.

Iowa Code section 96.6(3) provides:

3. Appeals. a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. The notice for a telephone or in-person hearing shall be sent to all the parties at least ten calendar days before the hearing date. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

b. Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601 or directly to the district court.

Iowa Code section 96.6(4) provides:

4. Effect of determination. A finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of the department, administrative law judge, or the employment appeal board, is binding only upon the parties to proceedings brought under this chapter . . .

871 IAC r. 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.

In *Hensley v. Iowa Dep't of Job Serv.*, 336 N.W.2d 448 (Iowa 1983), the Iowa Supreme Court dealt with a separation decision that had been adjudicated, and which the claimant wished to re-litigate with respect to an overpayment that was imposed as the result of the separation. The court explained, "The finality of the December 23, 1980 order on disqualification under the agency rules would make it preclusive as to the basis for disqualification based on principles of finality in administrative adjudication that are akin to the doctrine of res judicata with respect to judicial decisions." *Hensley*, 336 N.W.2d at 452. The United States District Court for the Southern District of Iowa explained the doctrine of res judicata and its application to administrative adjudications:

Iowa follows *Restatement (Second) of Judgments* § 83 ("Restatement") which gives res judicata effect to an adjudicative determination by an administrative tribunal if the

determination incorporated the essential elements of an adjudication including notice, the opportunity to present evidence and argument and rebut opposing evidence, and “other procedural elements as may be necessary to constitute the proceeding of a sufficient means of conclusively determining the matter in question.”

Area 15 Reg'l Planning Comm'n v. Cincinnati Ins. Co., 2011 WL 2709084, *6 (S.D. Iowa June 6, 2011) (quoting *Bennett v. MC No. 619, Inc.*, 586 N.W.2d 512, 517 (Iowa 1998) (quoting *Restatement § 83*)).

In this case, claimant separated from employer on May 9, 2023. Claimant has not worked for employer since the separation. The issue of claimant's May 9, 2023 separation from employer was determined by IWD on June 6, 2023. The decision was issued with proper notice to the parties. The decision was issued with appeal rights. Claimant appealed the decision to the administrative law judge. Claimant failed to appear for the hearing and a default decision was issued in appeal 23A-UI-06079-AR-T. Claimant did not appeal the decision to the Employment Appeal Board or to a District Court in Iowa. Neither Iowa Workforce Development nor this administrative law judge has jurisdiction to disturb a decision that is final agency action. The current decision referring to the prior claim year decision is affirmed.

DECISION:

The September 27, 2023, reference 01, decision is affirmed. The prior decision on the separation remains in effect.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

October 19, 2023
Decision Dated and Mailed

cs/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.