

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICOLE R SCOTT
Claimant

APPEAL NO: 13A-UI-11656-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A TO Z CORPORATION
A TO Z DAYCARE & LEARNING CENTER
Employer

OC: 09/29/13

Claimant: Respondent (1)

Section 96.6-2 - Prior Adjudication

STATEMENT OF THE CASE:

A to Z Corporation / A to Z Daycare & Learning Center (employer) appealed a representative's October 10, 2013 decision (reference 01) that concluded Nicole R. Scott (claimant) was qualified to receive unemployment insurance benefits. Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on November 8, 2013. The claimant participated in the hearing. Jennifer Smith appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is there a prior determination on the merits of this appeal that is binding on the parties and the outcome of this appeal?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits effective September 30, 2012. An Agency representative issued a decision dated October 17, 2012 (reference 01). That decision concluded that the separation was not disqualifying, that the claimant was eligible for benefits and the employer's account might be subject to charge. The employer appealed that decision and on November 29, 2012 an administrative law judge ruled in 12A-UI-12844-NT to affirm the representative's decision. The employer did further appeal that decision and on January 25, 2013 the Employment Appeal Board ruled in 13B-UI-12844 that the representative's and administrative law judge's decisions were affirmed. No further appeal was made of that decision to the district court and it has now become final.

Another decision was issued on February 28, 2013 (reference 04) which concluded that the claimant was not disqualified from receiving unemployment insurance benefits due to refusing an offer of work on February 11, 2013. The employer initially appealed that decision, but as noted in a decision issued under appeal 13A-UI-02683-ST on March 18, 2013, subsequently withdrew its appeal, perhaps because the employer then learned or understood that even though the claimant was being found eligible for unemployment insurance benefits and that the

employer's account could have been subject to charge, the employer's account was in fact not being charged because the claimant was under Department Approved Training (DAT) status.

The claimant initial benefit year expired on September 29, 2013, and she then established a second benefit year as of that date. The employer then protested the claimant's new claim. Another representative's decision was issued dated October 10, 2013 (reference 01), the subject of this appeal. That decision indicated that the decisions concluding the claimant was eligible to receive unemployment insurance benefits were still in effect.

There has not been any new separation from employment or other new development regarding the claimant's relationship with the employer; the only development was that the claimant established a new benefit year. While not directly pertinent to the outcome of this decision, the administrative law judge notes that the claimant is actually still under DAT status, and so the employer's account is still not actually being charged for benefits paid, even though the employer otherwise could be charged.

REASONING AND CONCLUSIONS OF LAW:

If a prior determination has been made on the same issue and the adversely affected party fails to make a timely appeal of a representative's decision, the decision on that issue has become final and is not subject to further review, and will be binding on the parties in related proceedings. Iowa Code § 96.6-2.

If the claimant had a dispute with whether or not she should have been disqualified as a result of the separation from the employer, then she needed to have filed an appeal from that decision within the appeal period for that decision. Iowa Code § 96.6-2; *Beardslee v. Iowa Department of Job Service*, 276 N.W.2d 373 (Iowa 1979). The establishment of a new claim year does not negate or erase the effect of the prior determination. As the employer exhausted its appeals of the original decisions which allowed benefits, the administrative law judge now lacks jurisdiction to make a determination with respect to the nature of the appeal, regardless of whether the merits of the appeal would be valid. See, *Beardslee*, supra; *Franklin v. Iowa Department of Job Service*; and *Pepsi-Cola Bottling Company v. Employment Appeal Board*, 465 N.W.2d 674 (Iowa App. 1990).

DECISION:

The representative's October 10, 2013 decision (reference 01) is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

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