

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIO RAMOS

Claimant

APPEAL NO: 14A-UI-04415-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

TODD REMMEREID

PROFIT ADVANTAGE INC

Employer

OC: 03/09/14

Claimant: Respondent (1)

871 IAC 24.19(1) – Determination and Review of Benefit Rights

871 IAC 24.28(6-8) – Prior Adjudication

Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The employer filed an appeal from the April 10, 2014, reference 03, decision that allowed benefits to the claimant based upon a decision in a prior benefit year for the same separation. After due notice was issued, a hearing was held by telephone conference call on May 19, 2014. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Sarah Emery, Administration, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence.

ISSUES:

The issues are whether the employer's appeal is timely and whether the separation was adjudicated in a prior claim year.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A decision allowing benefits to the claimant was mailed to the employer's last-known address of record on April 10, 2014. The employer received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by April 21, 2014. The appeal was not filed until April 29, 2014, which is after the date noticed on the disqualification decision. The employer did not respond in a timely manner because the claimant last worked for the employer in August 2013. The employer received a notice of claim with the incorrect employer name (dba), no account number and an invalid address for the employer. The employer did eventually receive the notice of claim and responded that the claimant voluntarily quit his job. On September 13, 2013, a fact-finding interview was held. The claimant did not participate, the employer stated the claimant voluntarily quit by failing to call or show up for work for three consecutive days, and the representative denied benefits to the claimant. On March 11, 2014, the employer received another notice of claim and submitted its protest March 24, 2014, and a fact-finding hearing was scheduled for April 8, 2014. The employer provided the representative

with a written statement as it was unable to participate in the fact-finding interview. On April 11, 2014, the employer received another representative's statement, this time allowing benefits to the claimant, and indicating a separation date of August 21, 2013. On April 14, 18 and 21, 2014, the employer called the Claims Center and stated it was assuming that the decision was made in error as the claimant had not worked for the employer since August 21, 2013. On April 24, 2014, a claims center representative called the employer and stated the previous decision from 2013 had been appealed and the claimant won his appeal with an administrative law judge in a decision dated November 27, 2013, and that decision remained in effect. The employer did not receive notice of the appeal hearing in November 2013 and the representative advised her to appeal the decision and acknowledged some of the documents contained the incorrect address for the employer. Due to the confusing nature of this situation and the fact that the Department mailed some of the needed documentation to an incorrect address for the employer and did not respond to repeated phone messages asking for an explanation so the employer would know whether or not to appeal the decision at this time, the administrative law judge finds the employer's appeal timely.

The decision at issue has been adjudicated in a prior claim year and that decision has become final. That decision allowed benefits to the claimant but the employer's account was not charged because the claimant left for other employment and consequently the benefits were charged to the state unemployment compensation fund.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Admin. Code r. 871-24.28(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.

871IAC 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.

The issue presented was resolved in a prior claim year (November 27, 2013) as the representative's decision dated September 16, 2013, reference 01. The current representative's decision, (April 10, 2014) referring to the prior claim year decision on the same separation date, is affirmed as this matter was previously adjudicated.

DECISION:

The April 10, 2014, reference 03, decision is affirmed. The employer's appeal is timely and the prior decision on the separation remains in effect. Benefits were allowed, but the employer's account shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css