

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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FAMILY DOLLAR SERVICES INC
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-03886-SWT
OC 03/14/04 R 04
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 - Timeliness of Appeal and Finality of Decision

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 29, 2004, reference 03, that concluded the decision on the separation from employment on September 24, 2003, had been issued in a prior benefit year and became final. A telephone hearing was held on April 28, 2004. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Taryn Barrett participated in the hearing on behalf of the employer. The record was left open to allow the employer to request that the case be reopened to present evidence about the prior adjudication in this matter. The employer responded and indicated that it was requesting the case be reopened.

FINDINGS OF FACT:

The employer appealed an unemployment insurance decision dated October 29, 2003, reference 04, that concluded the claimant was eligible for unemployment insurance benefits. A

telephone hearing was scheduled for November 26, 2003, but the employer did not participate in the hearing and the decision granting benefits was affirmed in a decision by an administrative law judge in appeal number 03A-UI-12648-BT issued on December 4, 2003. The employer never appealed that decision to the Employment Appeal Board within the 15 days provided by law and the decision became final.

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 14, 2004. The employer protested the claim based on the same separation from employment that had been finally determined on December 4, 2003.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the decision of the administrative law judge in appeal number 03A-UI-12648-BT, issued on December 4, 2003, that concluded the claimant was eligible for unemployment insurance benefits became final, which prevents the parties from adjudicating the issue again.

Iowa Code Section 96.6-3 provides in pertinent part:

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.

The Iowa Supreme Court has ruled that appeals from unemployment insurance decisions must be filed within the time limit set by statute and become final in the absence of a timely appeal. Franklin v. IDJS, 277 N.W.2d 877, 881 (Iowa 1979); Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979).

In the present case, the employer never appealed the decision of the administrative law judge to the Employment Appeal Board within the 15 days provided by law and the decision became final. The claimant is not allowed to have the matter re-decided simply because the claimant filed a new claim in a different benefit year.

DECISION:

The unemployment insurance decision dated March 29, 2004, reference 03, is affirmed. The decision that the claimant is qualified to receive unemployment insurance benefits based on his separation from employment with the employer remains in affect.

saw/b