

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN M TINDER
Claimant

APPEAL NO: 10A-UI-07962-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THOMAS L CARDELLA & ASSOCIATES INC
Employer

OC: 04/12/09

Claimant: Appellant (2)

Section 96.6-2 – Prior Adjudication
Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Justin M. Tinder (claimant) appealed a representative's May 19, 2010 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment Thomas L. Cardella & Associates, Inc. (employer) because a prior determination in another benefit year was still in effect and binding on the parties. This matter was combined for hearing with one related appeal, 10A-UI-05315-DT, addressing the separation itself, set for a telephone hearing on June 3, 2010. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, 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 April 12, 2009, which he reopened with an additional claim effective February 14, 2010. An Agency representative issued a decision dated March 26, 2010 (reference 02), the subject of 10A-UI-05315-DT. That representative's decision concluded that the claimant was not eligible to receive unemployment insurance benefits because the separation between the parties was disqualifying to the claimant. The claimant timely appealed that decision and in the concurrently issued decision in appeal 10A-UI-05315-DT, that decision has been reversed.

After the expiration of his 2009 claim year, he established a second claim year effective May 9, 2010. Another representative's decision was issued dated May 19, 2010 (reference 01), the subject of this appeal. That decision indicated that the prior determination that the claimant was

disqualified because of the separation was still in effect and barred the claimant from eligibility in the new claim year.

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.

The establishment of a new claim year does not negate or erase the affect of the prior determination. Iowa Code § 96.6-2; Beardslee v. Iowa Department of Job Service, 276 N.W.2d 373 (Iowa 1979). However, a timely appeal and reversal of a prior determination is equally as binding upon the parties in a subsequent claim year. The disqualification from the prior determination has been reversed in the concurrently issued decision in 10A-UI-05315-DT. As a result, that reversal is also applicable in the claimant's new claim year. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's May 19, 2010 decision (reference 01) is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css