

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

ANNIE M TWITTY
500 W DALE ST APT 202
WATERLOO IA 50703

EAGLE OTTAWA LLC
4455 REMINGTON RD
WATERLOO IA 50703

Appeal Number: 04A-UI-07730-SWT
OC: 06/27/04 R: 03
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 July 14, 2004, reference 01, that concluded a decision on the claimant's separation from employment on October 3, 2003 was made on a prior claim and remained in effect. A telephone hearing was held on August 9, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Lance Dunn participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

An unemployment insurance decision was mailed to the employer's last known address of record on November 5, 2003. The decision concluded the claimant's discharge was not for work-connected misconduct. The decision stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by November 15, 2003. The employer

received the decision within the ten days allowed to appeal it but never appealed it before the appeal deadline, because it was not promptly forwarded to the human resources director.

The claimant filed a new claim for unemployment insurance benefits with an effective date of June 27, 2004 after her benefit year expired. The employer protested the new claim, and the Agency, on July 14, 2004, mailed a decision that stated a decision on the claimant's separation from employment on October 3, 2003 was made on a prior claim and remained in effect. The employer appealed that decision on July 19, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the unemployment insurance decision dated November 5, 2003, that concluded the claimant was qualified to receive benefits based on her separation on October 3, 2003, became final, which prevents the parties from adjudicating the issue again.

Iowa Code Section 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

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).

The employer never appealed the decision dated November 5, 2003 within the 10 days provided by law, and the decision became final. The employer does not receive another chance to contest the claimant's qualification based on the same separation from employment simply because the claimant filed a new claim in a different benefit year.

DECISION:

The unemployment insurance decision dated July 14, 2004, reference 01, is affirmed. A decision on the claimant's separation from employment on October 3, 2003 was made on a prior claim and remains in effect. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

saw/tjc