

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

PEGGY A EDGE
219 –4TH ST NE
WAUKON IA 52172

JOSEPH L ERTL INC
PO BOX 327
DYERSVILLE IA 52040

Appeal Number: 04A-UI-01164-DWT
OC 01/12/03 R 04
Claimant: Appellant (4)

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 are 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 –Final Decision
871 IAC 24.28(2) - Requalification

STATEMENT OF THE CASE:

Peggy A. Edge (claimant) appealed a representative's January 28, 2004 decision (reference 05) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Joseph L. Ertl, Inc. (employer) would not be charged because a previous decision, October 2, 2003, was final and concluded the claimant was not qualified to receive benefits based on the reasons for her separation from the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 24, 2004. The claimant participated in the hearing. Karla Knipper and Jane McCleam 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 the claimant eligible to receive unemployment insurance benefits as of January 18, 2004?

FINDINGS OF FACT:

The claimant established a new unemployment insurance benefit year during the week of January 18, 2004. The claimant did not intend to appeal an October 2, 2003 decision that disqualified her from receiving benefits as of August 31, 2003 because she was working at Cabela's when she received the decision. The October 2, 2003 decision became the final decision in this matter when the claimant did not appeal on or before October 12, 2003. See also the decision for appeal 04A-UI-01163-DWT.

The claimant started working at Cabela's on September 9, 2003. From September 9 through December 31, 2004, the claimant earned gross wages of \$4,784.98.

When the claimant was laid off from Cabela's, she established a new benefit year during the week of January 18, 2004. The claimant appealed a representative's January 28, 2004 that disqualified her from receiving unemployment insurance benefits because the October 2, 2003 decision was considered a final decision. The claimant mailed her appeal from the January 28, 2004 decision on January 31, 2004.

REASONING AND CONCLUSIONS OF LAW:

A decision is considered the final decision and cannot be adjudicated again if a party has not timely appealed a decision. Iowa Code §96.6-2. This means the October 2, 2003 representative's decision cannot be changed even when a claimant establishes a new benefit year. So unless the claimant has requalified by earning ten times her weekly benefits, she remains disqualified from receiving unemployment insurance benefits. Also, the employer's account will not be charged.

If a claimant requalifies, she will be eligible to receive benefits. 871 IAC 24.28(2). The facts show that after the claimant worked for the employer, she worked at Cabela's and earned gross wages of more than ten times her weekly benefit amount before she established a new benefit year. Therefore, as of January 18, 2004, she is eligible to receive unemployment insurance benefits, if she meets all other eligibility requirements.

DECISION:

The representative's January 28, 2004 (reference 05) is modified in the claimant's favor. The representative's October 2, 2003 decision is a final decision and cannot be readjudicated. This means the employer's account will not be charged for benefits paid to the claimant. Since the claimant has met the requalification requirements by earning more than ten times her weekly benefit amount from a subsequent employer, she is qualified to receive unemployment insurance benefits as of January 18, 2004 if she meets all other eligibility requirements.

dlw/kjf