

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JARL B POTTER
Claimant

APPEAL NO. 11A-UI-06475-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**NPC INTERNATIONAL INC
PIZZA HUT**
Employer

**OC: 04/03/11
Claimant: Appellant (1)**

Iowa Code Section 96.6(4) – Previously Adjudicated Issue

STATEMENT OF THE CASE:

Jarl Potter filed an appeal from the May 4, 2011, reference 02, decision that that allowed benefits generally, but that denied benefits based on wages earned from the above employer, based on a prior adjudication of the February 4, 2011 separation. . After due notice was issued, a hearing was held by telephone conference call on June 13, 2011. Mr. Potter participated and presented additional testimony through Jason Feuerhelm. Kelly Kramer represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 11A-UI-06474-JTT. Department Exhibits D-1 and D-2 were received into evidence.

ISSUES:

Whether the matter of Mr. Potters February 4, 2011 separation has been adjudicated as part of an earlier claim for benefits or prior claim year.

Whether the prior adjudication continues to bind Mr. Potter in the new claim year.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On April 27, 2011, and Iowa Workforce Development representative entered an April 27, 2011, reference 02, decision that allowed benefits generally, provided Mr. Potter was otherwise eligible, but denied benefits based on wages earned through employment with NPC International (Pizza Hut) until Mr. Potter earned and was paid wages equal to ten times his weekly benefit amount from insured work after separating from Pizza Hut. The decision was based on a claim year that had started on April 4, 2010. Mr. Potter failed to file a timely appeal from the April 27, 2011 decision and it became a final agency decision. The April 27, 2011 decision was affirmed on appeal, based on the untimely appeal. See Appeal Number 11A-UI-06474-JTT.

The April 27, 2011, reference 02 decision concerned Mr. Potter's February 4, 2011 separation from the employer. Mr. Potter did not perform work for the employer after February 4, 2011.

Mr. Potter has not performed work for any other employer since his February 4, 2011 separation from Pizza Hut.

Mr. Potter established a new "original claim" for benefits in connection with the new benefit year that began for Mr. Potter on April 3, 2011. On May 4, 2011, a Workforce Development representative entered a May 4, 2011, reference 02 decision based on the more recent, April 3, 2011, original claim date. The decision allowed benefits, provided Mr. Potter met all other eligibility requirements. But the decision said that NPC International, Inc., Pizza Hut, would not be charged for benefits. The decision further stated a decision on the February 4, 2011 separation had been made on a prior claim and that the decision had relieved the employer of charges.

REASONING AND CONCLUSIONS OF LAW:

Unless appealed in a timely manner and reversed on appeal, a finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of Iowa Workforce Development, administrative law judge, or the employment appeal board, is binding upon the parties in proceedings brought under this chapter. See Iowa Code section 96.6(3) and (4).

The April 27, 2011, reference 02 decision concerning the February 4, 2011 separation, entered in connection with the prior claim year, became a final agency decision, was affirmed on appeal, and continues to bind Mr. Potter and the employer in the new claim year.

DECISION:

The Agency representative's May 4, 2011, reference 02 decision is affirmed. The February 4, 2011 separation was adjudicated in connection with a prior claim year and that adjudication continues to bind the parties in the new claim year. The claimant is eligible for benefits in the new claim year, provided he is otherwise eligible, but is not eligible for benefits based on wages earned through employment with NPC International (Pizza Hut) until he has earned and been paid wages for insured work equal to ten times his weekly benefit amount after separating from Pizza Hut. The employer's account will not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css