

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD R GIBSON JR
Claimant

APPEAL NO. 08A-UI-01878-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
SEDONA STAFFING
Employer

OC: 02/03/08 R: 04
Claimant: Appellant (1)

Section 96.6-2 – Prior Adjudication

STATEMENT OF THE CASE:

Donald R. Gibson, Jr. (claimant) appealed a representative's February 22, 2008 decision (reference 04) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment with L A Leasing, Inc. / Sedona Staffing (employer). Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on March 11, 2008. The claimant participated in the hearing. Colleen McGuinty 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 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 February 4, 2007. An Agency representative issued a decision dated February 5, 2008 (reference 07). That decision concluded that as of January 13, 2008, the claimant was not eligible for benefits. The claimant appealed that decision and a hearing on his appeal was held on February 20, 2008, under 08A-UI-01287-DWT. On February 21, 2008, a decision was issued in that appeal affirming the disqualification. The claimant appealed that administrative law judge's decision to the Employment Appeal Board on February 25, 2008. The Board has as yet not ruled on that appeal.

Upon the expiration of his prior claim year, the claimant established a second claim year effective February 3, 2008. Another representative's decision was issued dated February 22, 2008 (reference 04), the subject of this appeal. That decision concluded that the disqualification from the prior claim year (under reference 07, 08A-UI-01287-DWT) was still in effect and therefore was binding on the claimant's eligibility in the new claim year.

REASONING AND CONCLUSIONS OF LAW:

If a prior determination has been made on the same issue, in this case, the claimant's separation from employment with the employer, the prior decision on that issue will be determinative and is not subject to review in a secondary proceeding such as that resulting from the establishment of a second claim year. The original determination is binding on the parties in related proceedings. Any reversal on an issue as between the parties must occur through the process of pursuing a timely appeal of the original determination.

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 original disqualification imposed by the representative's decision issued on February 5, 2008 (reference 07) as affirmed in 08A-UI-01287-DWT is still in effect, but is pending review on appeal to the Employment Appeal Board. The determination of the underlying separation between the parties is not subject to a redetermination in this current appeal; rather, the outcome of the appeal in this case is dependent on the outcome of the appeal in the case before the Board. This case should be joined for review with the case currently pending before the Board.

DECISION:

The representative's February 22, 2008 decision (reference 04) is affirmed. The underlying separation pertinent to this case is the subject of a prior determination which has not been reversed but is pending appeal to the Employment Appeal Board. Unless the disqualification is reversed by the Board, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is then otherwise eligible. This matter shall be forwarded to the Board to be joined for review with the appeal in 08A-UI-01287-DWT.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw