

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN A FEILD

Claimant

APPEAL NO: 12A-UI-14997-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

OC: 12/02/12

Claimant: Appellant (1)

Iowa Code § 96.6(3) – Finality of Decisions

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 12, 2012 determination (reference 02) that held he was not qualified to receive benefits in his new claim year because his December 1, 2011 employment separation had been previously adjudicated in a prior claim year. The claimant appeared for the hearing with his attorneys, Vivian Meyer Betts and Hattie Holmes. The claimant agreed a decision in this matter could be based on the administrative record. Based on the administrative record, and the law, the administrative law judge concludes the claimant's December 1, 2011 employment separation has been previously adjudicated, but it has not been finalized because the claimant's appeal to District Court as of January 24 was still pending.

ISSUE:

Has the claimant's December 1, 2011 employment separation been previously adjudicated in a previous claim year?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of December 4, 2011. A January 24, 2012 determination (reference 02) held the claimant qualified to receive benefits. The employer appealed the determination.

A hearing was held and both parties participated. An administrative law judge issued a decision that reversed the January 24, 2012 determination. The administrative law judge disqualified the claimant from receiving benefits. See decision for appeal 12A-UI-01247-NT. The claimant appealed the administrative law judge's decision to the Employment Appeal Board.

On May 14, 2012, the Employment Appeal Board affirmed the decision for appeal 12A-UI-01247. The claimant appealed the Employment Appeal Board's decision to Black Hawk County District Court. As of January 24, 2012, the District Court case in this matter was pending and no decision had been issued by a District Court Judge.

The claimant established a new benefit year during the week of December 2, 2012.

REASONING AND CONCLUSIONS OF LAW:

A finding of fact or law, judgment, conclusion, or final order entered by an employee or representative of Workforce Development, administrative law judge, or the Employment Appeal Board is binding on the parties brought under the Employment Security Act. Iowa Code § 96.6(4).

The December 1, 2011 employment separation was adjudicated in a previous claim year. Initially, the claimant was determined eligible to receive benefits, but the employer appealed the initial determination. When an administrative law judge concluded the claimant was not qualified to receive benefits in the previous claim year, the claimant exercised his appeals rights by appealing to District Court. Even though the claimant has appeal rights, he is precluded from litigating the same issue again when filing a new or additional claim. Since the case is pending in District Court, this matter has been previously adjudicated, but not finalized. Until the Court reverses the Employment Appeal Board's decision, the claimant is not qualified to receive benefits in his new claim year.

DECISION:

The representative's December 12, 2012 determination (reference 02) is affirmed. The claimant's December 1, 2011 employment separation has been adjudicated in a previous claim year. As a result of the claimant exercising his appeal rights, this matter has not been finalized because the District Court had not made a decision as of January 24, 2012. If the District Court reverses the Employment Appeal Board's decision, the claimant will be qualified to receive benefits, but if the District Court affirms the Employment Appeal Board's decision, the claimant remains disqualified from receiving benefits until he earns requalifying wages.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/tll