

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARRIE BROWN
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 23A-UI-08455-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/28/23
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Carrie Brown, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) August 29, 2023, (reference 05) unemployment insurance (UI) decision. IWD denied Ms. Brown REGULAR (state) UI benefits as of August 20, 2023 because IWD concluded that IWD mailed her a notice to report to IWD for a reemployment and eligibility assessment on August 25, 2023, but she did not do so. On September 7, 2023, the Iowa Department of Inspections, Appeals, and Licensing, UI Appeals Bureau mailed a notice of hearing to Ms. Brown and IWD for a telephone hearing scheduled for September 20, 2023.

The undersigned administrative law judge held a telephone hearing on September 20, 2023. Ms. Brown participated in the hearing personally. IWD participated in the hearing through Christina Waston, Re-Employment and Eligibility Assessment (RESEA) operations manager and Edward Watts, RESEA career planner. Mary Kirk, RESEA career planner, observed the hearing. The undersigned took official notice of the administrative record and admitted Claimant's Exhibits. A - C, and Department Exhibit 1 as evidence.

ISSUES:

Is Ms. Brown able to and available for work as of August 20, 2023?
Did Ms. Brown fail to report to IWD as directed by an IWD representative or offer justifiable cause for not doing so?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Brown filed her initial UI claim effective May 28, 2023. On July 31, Ms. Brown called IWD and requested that a July 24 reemployment and eligibility assessment be rescheduled. IWD granted the request and rescheduled the assessment to August 25 at 8:00 a.m.

On August 1, IWD mailed Ms. Brown a notice for the August 25, 8:00 a.m. assessment to her correct address. The notice informed Ms. Brown that IWD would call her on August 25. Ms.

¹ Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

Brown was not aware of any issues receiving her mail at this time and she checks her mail every day, but Ms. Brown did not receive the notice in the mail. On August 22, IWD emailed Ms. Brown a reminder about the August 25 telephone meeting. Ms. Brown received the email reminder.

On August 25, Ms. Brown waited for IWD to call her. Mr. Watts called Ms. Brown twice at the telephone number listed on her UI account, which is her correct number. The call did not go through either time. Ms. Brown did not contact IWD after the appointment time because in the past when she missed an appointment Ms. Brown remembers IWD called her to reschedule the appointment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Brown did not participate in the August 25, 2023 assessment but she established justifiable cause for not participating so she eligible for UI benefits as of August 20, 2023.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.2(1)e provides:

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(2) The department retains the ultimate authority to choose the method of reporting and payment.

Iowa Admin. Code r. 871-24.23(11) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(11) Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements.

UI rules require a claimant to participate in reemployment services unless the claimant shows justifiable cause for not doing so, or the claimant has previously completed the training or services.² If a claimant does not participate in the services without justifiable cause, the claimant is disqualified from receipt of UI benefits until the claimant participates in the services.³ Justifiable cause includes an important and significant reason that a reasonable person would consider adequate justification in view of the importance of reemployment to the claimant. Not participating in the services or not showing justifiable cause means the claimant is not available for work.⁴

In this case, Ms. Brown knew about the August 25 meeting, and she waited for IWD to call her. Ms. Brown did not participate in the meeting through no fault of her own. Ms. Brown has established justifiable cause for not participating in the August 25 telephone meeting. Ms. Brown is eligible for UI benefits as of August 20, 2023, the Sunday of the week of the telephone meeting, as long as no other decision denies her UI benefits.

DECISION:

The August 29, 2023 (reference 05) decision is REVERSED. Ms. Brown has established justifiable cause for not participating in the August 25, 2023 telephone meeting with IWD and she is able to and available for work as of August 20, 2023. Ms. Brown is eligible for UI benefits as of August 20, 2023, as long as no other decision denies her UI benefits.



Daniel Zeno
Administrative Law Judge

September 25, 2023
Decision Dated and Mailed

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² Iowa Admin. Code r. 871-24.6(6).

³ *Id.*

⁴ Iowa Admin. Code r. 871-24.2(1)e and 871-24.23(11).

APPEAL RIGHTS. If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.