

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

DARBY D EIBEN-PROKOP

Claimant

APPEAL NO. 23A-UI-09717-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 09/10/23

Claimant: Appellant (6)

Iowa Code Section 96.4(3) – Able & Available, Work Search Warning

Iowa Code Section 96.6 – Aggrieved Party Requirement

Iowa Administrative Code Rule 871-26.8(1) – Dismissal of Appeal, No Aggrieved Party

STATEMENT OF THE CASE:

On October 11, 2023, Darby Eiben-Prokop (claimant) filed a timely appeal from the October 3, 2023 (reference 04) decision that reminded the claimant that he was required to engage in four reemployment activities, including three job applications, each benefit week and that warned the claimant could be disqualified for benefits for future weeks in which the claimant did not meet the work search requirement. The reference 04 decision cited the weekly claim for the week ending September 30, 2023 as the basis for the work search warning decision. The Appeals Bureau scheduled a hearing for October 30, 2023 and properly notified the claimant of the hearing. Upon review of the reference 04 decision, the appeal, and the October 20, 2023 (reference 05) decision, the administrative law judge determined a hearing was unnecessary and that the appeal should be dismissed.

ISSUES:

Whether the claimant is aggrieved by the October 3, 2023 (reference 04) decision in light of the October 20, 2023 (reference 05) decision.

Whether the appeal should be dismissed.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

On October 11, 2023, Darby Eiben-Prokop (claimant) filed a timely appeal from the October 3, 2023 (reference 04) decision that reminded the claimant that he was required to engage in four reemployment activities, including three job applications, each benefit week and that warned the claimant could be disqualified for benefits for future weeks in which the claimant did not meet the work search requirement. The reference 04 decision cited the weekly claim for the week ending September 30, 2023 as the basis for the work search warning decision.

On October 20, 2023, Iowa Workforce Development Benefits Bureau issued a reference 05 decision that held the reference 04 decision was entered in error and that declared the reference 04 decision nullified and voided.

REASONING AND CONCLUSIONS OF LAW:

The appeal rights and procedures set forth at Iowa Code section 96.6 presuppose and require the existence of an aggrieved party.

Iowa Administrative Code rule 871-26.8(1) provides as follows: "An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor."

Because the October 20, 2023 (reference 05) decision nullified and voided the October 3, 2023 (reference 04) decision from which the claimant appealed, the claimant is not aggrieved by the reference 04 decision. Because the matter has been resolved in the claimant's favor there is no longer a basis for the appeal. Accordingly, the appeal is dismissed.

DECISION:

Because the October 20, 2023 (reference 05) decision nullified and voided the October 3, 2023 (reference 04) decision from which the claimant appealed, the claimant is not aggrieved by the reference 04 decision. Accordingly, the appeal is DISMISSED. The hearing set for October 30, 2023 is canceled.



James E. Timberland
Administrative Law Judge

October 31, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the 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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
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>.

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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.