

IOWA DEPARTMENT OF INSPECTIONS AND
APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

RANDALL STREETER
PO BOX 322
FAYETTE, IA 52142

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
RONEE SLAGLE & THERESA MCCABE

JONI BENSON, IWD

Appeal Number: 16IWDUI189
OC: 12/27/15
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the ***Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319.***

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

September 22, 2016

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Iowa Workforce Development (IWD) issued a notice of decision dated March 11, 2016 (reference 02) finding Randall Streeter was not eligible to receive unemployment insurance benefits effective March 6, 2016 for his failure to attend a reemployment and eligibility assessment on March 9, 2016.

Streeter emailed an appeal of IWD's decision on June 20, 2016. IWD transmitted the case to the Department of Inspections and Appeals on July 11, 2016 to schedule a contested case hearing. A telephone hearing was scheduled in this matter for August 12, 2016. Streeter then requested an in-person hearing, and the request was granted on August 3, 2016.

Hearing for this matter took place on September 16, 2016 at the Iowa Workforce Development office in Waterloo, Iowa. Streeter appeared self-represented and testified. Also present was his wife, Holly Streeter. Theresa McCabe appeared on behalf of IWD and participated. IWD submitted exhibits marked 1 through 4 that were admitted without objection.

ISSUES

Whether Streeter filed a timely appeal; whether IWD correctly determined the claimant is ineligible to receive unemployment insurance benefits; and whether IWD correctly determined that Streeter did not establish justifiable cause for failing to participate in reemployment services.

FINDING OF FACT

Because the first issue listed above is dispositive, the facts herein are generally limited to those pertinent to whether Randall Streeter submitted a timely appeal.

Streeter began receiving unemployment insurance benefits the week of December 27, 2015. He filed claims for benefits through the week of January 25, 2016. Streeter began a new job on January 29, 2016. (H. Streeter Testimony).

IWD issued a notice to report to Streeter on February 11, 2016 requiring him to participate in a re-employment services orientation and assessment appointment. The notice informed him that he was to report to a three hour-long orientation on March 9, 2016. Because Streeter was employed and had stopped filing claims for unemployment benefits, he did not believe the notice was applicable to him. As such, he disregarded the notice. (Exhibit 2; H. Streeter Testimony).

When Streeter did not appear for the March 9, 2016 appointment, IWD issued a notice canceling his unemployment insurance benefits effective March 6, 2016 until he reported for the requisite orientation. The decision, dated March 11, 2016, further instructed Streeter as follows:

**TO APPEAL THIS DECISION:
THIS DECISION BECOMES FINAL UNLESS AN APPEAL IS
POSTMARKED BY 03/21/16, OR RECEIVED BY IOWA WORKFORCE**

DEVELOPMENT APPEAL SECTION BY THAT DATE. IF THIS DATE FALLS ON A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT WORKING DAY.

(Notice of Decision 3/11/16).

Streeter acknowledged receiving IWD's notice of decision. Because he was not claiming unemployment benefits at that time, he did not find it necessary to file an appeal. (H. Streeter Testimony).

Thereafter, Streeter lost his job and re-applied for unemployment insurance benefits on May 17, 2016. On June 6, 2016, IWD issued a notice informing him that although he was eligible for unemployment insurance benefits from May 15, 2016 through May 28, 2016, he was disqualified from receiving those benefits per IWD's March 11, 2016 notice of decision. (H. Streeter Testimony; Notices of Decision 6/6/16; Request for Appeal).

In response, on June 20, 2016, Streeter filed an appeal of IWD's decision to disqualify him from receiving benefits. He did not file an appeal on by the notice's March 21, 2016 deadline because at that time he did not realize he would be disqualified from receiving benefits in the future. (H. Streeter Testimony).

REASONING AND CONCLUSIONS OF LAW

It must first be determined whether Streeter filed a timely appeal from the March 9, 2016 decision of IWD. Iowa Code § 96.6(2) requires that an appeal of an IWD representative's decision must be filed by a claimant or other interested party "after notification or within ten calendar days after notification was mailed to the claimant's last known address." The Iowa Supreme Court has determined that timely appeal is both mandatory and jurisdictional. *Beardslee v. Iowa Dept. of Job Services*, 276 N.W.2d 373, 377 (Iowa 1979).

Streeter acknowledged that he did not appeal IWD's decision at issue by the March 21, 2016 deadline. The undersigned administrative law judge understands that Streeter was not receiving unemployment benefits at the time he received the notice, and did not realize it could affect his future unemployment claims. Under the circumstances, the undersigned believes Streeter made a reasonable and innocent mistake. Nevertheless, timely appeal is a mandatory requirement, and the undersigned does not have authority to circumvent Iowa law.

Streeter is encouraged to contact his local IWD office for information regarding how to requalify for further unemployment benefits.

DECISION

Iowa Workforce Development's decision dated March 11, 2016, reference 02, is hereby **AFFIRMED**.

kmd