

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

Appeal Number: 07-IWDUI-101
OC 06/10/07
Claimant: Appellant (6)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

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.

ANTONIO D TULA
PO BOX 95
STORM LAKE IA 50588-0095

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
INVESTIGATIONS AND RECOVERY
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209

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.

DAN ANDERSON, IWD

(Administrative Law Judge)

July 20, 2007

(Decision Dated & Mailed)

871IAC26.11 – Motion to Dismiss Appeal

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated July 3, 2007, reference 012 that he was not legally authorized to work in the United States, did not meet the availability requirements of the law, and he was disqualified from receiving benefits effective June 10, 2007.

Unemployment Appeals transmitted this case to the Division of Administrative Hearings. Prior to a hearing being scheduled in this matter, Investigator Stroud requested this appeal to be dismissed.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: The claimant appealed a department decision that disqualified him from receiving unemployment benefits dated July 3, 2007, reference 02. Prior to the scheduling of a telephone hearing, Investigator Stroud filed a motion to dismiss the appeal, because the department issued a decision (July 13, 2007, reference 4) that removed the disqualifying issue, and allowed unemployment benefits.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the department's motion to dismiss this appeal and remand it should be approved.

871 IAC 26.11 provides:

- (1) No technical form for motions is required. Nevertheless, pre-hearing motions must be in writing, state the grounds for relief and state the relief sought.

The administrative law judge has reviewed the records and files herein and concludes that the motion to dismiss this appeal should be approved, as the department has removed the disqualifying issue in a subsequent decision that allows the claimant benefits.

DECISION:

The decision of Iowa Workforce Development dated July 3, 2007, reference 02, is SET ASIDE, because the department has issued a decision dated July 13, 2007, reference 04 that is controlling in this matter. The claimant is entitled to receive benefits, provided he is otherwise eligible. The appeal is dismissed.

rls