

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

BRANDON G RUBIO
Claimant

APPEAL NO. 22A-UI-13951-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/07/21
Claimant: Appellant (6)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Admin. Code r. 871-24.2(1)(e) – Failure to Report as Directed
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 June 15, 2022, Brandon Rubio (claimant) filed a timely appeal from the June 9, 2022 (reference 17) decision that denied benefits effective June 5, 2022, based on the deputy's conclusion the claimant failed to report as directed for single-party fact-finding interviews set for June 8, 2022. An appeal hearing was set for July 27, 2022 and due notice was issued to the claimant. However, upon review of relevant Agency administrative records in preparation for the appeal hearing, the administrative law judge concludes the appeal hearing is unnecessary and that the appeal should be dismissed. The administrative law judge took official notice of the following Agency administrative records: the reference 17 and 18 decisions and supporting documents, DBRO, KCCO and KFFV.

ISSUE:

Whether the claimant is aggrieved by the June 9, 2020 (reference 17) decision in light of the June 16, 2022 (18) decision.

FINDINGS OF FACT:

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

On June 15, 2022, Brandon Rubio (claimant) filed a timely appeal from the June 9, 2022 (reference 17) decision that denied benefits effective June 5, 2022, based on the deputy's conclusion the claimant failed to report as directed for single-party fact-finding interviews set for June 8, 2022. An appeal hearing was set for July 27, 2022 and due notice was issued to the claimant.

On June 16, 2022, Iowa Workforce Development Benefits Bureau mailed the reference 18 decision to the claimant. The reference 18 effectively reversed the reference 17 disqualification decision. The reference 18 decision allowed benefits effective June 5, 2022, provided the claimant met all other eligibility requirements, based on the deputy's determination the claimant had an acceptable reason for not reporting for the fact-finding interviews in question. The

reference 18 decision erroneously indicated the fact-finding interviews were set for June 5, 2022, rather than June 8, 2022.

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."

The June 16, 2022 (reference 18) decision effectively reversed the June 9, 2022 (reference 17) disqualification decision and resolved the failure to appear disqualification issue in the claimant/appellant's favor. Accordingly, the claimant is not aggrieved by the reference 17 decision and there is no basis for the appeal, as well as no additional remedy available through the appeal. The claimant's appeal is dismissed.

DECISION:

The claimant's appeal from the June 9, 2022 (reference 17) decision is dismissed. The June 16, 2022 (reference 18) decision effectively reversed the reference 17 disqualification decision, and allowed benefits effective June 5, 2022, provided the claimant met all other eligibility requirements, based on the deputy's determination the claimant had an acceptable reason for not reporting for the fact-finding interviews in question. Accordingly, the claimant is not aggrieved by the reference 17 decision. The hearing set for July 27, 2022 is cancelled.



James E. Timberland
Administrative Law Judge

September 21, 2022
Decision Dated and Mailed

jet/kmj

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
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>.

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 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.