

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**JASMINE FALLEN**  
**2015 PASADENA DR., APT. 6**  
**DUBUQUE, IA 52001-0807**

**IOWA WORKFORCE DEVELOPMENT**  
**REEMP. SERVICES COORDINATOR &**  
**MARIA RUNDE**

JOE WALSH, IWD

**Appeal Number: 12IWDUI021**  
**OC: 2/20/11**  
**Claimant: Appellant (6)**

**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, 4<sup>TH</sup> 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.

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(Administrative Law Judge)

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March 2, 2012

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(Decision Dated & Mailed)

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**STATEMENT OF THE CASE**

Jasmine Fallen filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated May 24, 2011, reference 05. In this decision, the Department determined that Ms. Fallen was ineligible to receive unemployment insurance benefits effective May 15, 2011 because she did not report to her local Workforce Development center after receiving notice to do so.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on January 12, 2012 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on January 18, 2012. On February 3, 2012, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Workforce advisor Maria Runde represented the Department and presented testimony. Exhibits 1 through 7 were submitted by the Department and

admitted into the record as evidence. The Appellant was provided instructions to participate in the hearing, but did not call in to do so. The hearing was held in her absence.

### **ISSUES**

1. Whether the Appellant filed a timely appeal.
2. Whether the Department correctly determined that the Appellant did not establish justifiable cause for failing to participate in reemployment services.

### **FINDINGS OF FACT**

The decision under appeal was issued by the Department on May 24, 2011. The decision states that it becomes final unless an appeal is postmarked or received by the Department by June 3, 2011. The decision also states that if the final day for appeal falls on a Saturday, Sunday, or legal holiday the appeal period is extended to the next working day. (Exh. 3). Ms. Fallen's appeal was received by the Department on November 22, 2011. (Exh. 1).

### **REASONING AND CONCLUSIONS OF LAW**

Iowa Code section 96.6(2) requires that an appeal of a 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 Department's regulations provide that the effective date of the appeal is established by either the postmark on the appeal or the date stamp.<sup>1</sup> The Iowa Supreme Court has determined that timely appeal is both mandatory and jurisdictional.<sup>2</sup>

Ms. Fallen's appeal was not made timely. Since the appeal was not filed timely, I do not have jurisdiction to consider whether the Department was correct in disqualifying Ms. Fallen from receiving unemployment insurance benefits due to her failure to attend reemployment services.

### **DECISION**

The Appellant's appeal is dismissed because it was not timely filed.

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<sup>1</sup> 871 Iowa Administrative Code (IAC) 26.4(2).

<sup>2</sup> *Beardslee v. Iowa Dept. of Job Services*, 276 N.W.2d 373, 377 (Iowa 1979).