

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

DEANGELO D SMITH

Claimant

APPEAL NO. 23A-UI-08175-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 07/23/23

Claimant: Appellant (6)

Iowa Code Section 96.4(3) – Able & Available

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 August 23, 2023, Deangelo Smith (claimant) filed a timely appeal from the August 18 2023 (reference 06) decision that denied benefits for the period beginning August 13, 2023, based on the deputy's conclusion that the claimant failed to report for a reemployment and eligibility assessment (RESEA) meeting on August 14, 2023 and therefore did not meet the availability requirement effective August 13, 2023. A hearing has been set for September 6 2023. The claimant and Iowa Workforce Development have been duly notified. On August 28, 2023, IWD submitted a request to dismiss the appeal and attached an August 28, 2023 (reference 07) decision. Upon review of the appeal and agency administrative records including the reference 06 and 07 decisions, DBRO and KCCO, the administrative law judge determines a hearing is unnecessary and that the appeal may be dismissed.

ISSUES:

Whether the claimant is aggrieved by the August 18, 2023 (reference 06) decision in light of the August 28, 2023 (reference 07) decision.

Whether the claimant's appeal should be dismissed.

FINDINGS OF FACT:

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

On August 18, 2023, Iowa Workforce Development issued the reference 06 decision that denied benefits for the period beginning August 13, 2023, based on the deputy's conclusion that the claimant failed to report for a reemployment and eligibility assessment (RESEA) meeting on August 14, 2023 and therefore did not meet the availability requirement effective August 13, 2023.

On August 23, 2023, the claimant filed a timely appeal from the August 18, 2023 (reference 06) decision.

On August 28, 2023, Iowa Workforce Development issued the reference 07 decision that allowed benefits for the period beginning August 13, 2023, provided the claimant met all other eligibility requirements, based on the deputy's conclusion the claimant had been disqualified for benefits for failure to participate in reemployment and eligibility assessment (RESEA) but had since participated in the assessment. The reference 07 decision modified and effectively reversed the reference 06 decision from which the claimant appeals in the present matter.

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 reference 07 decision modified and effectively reversed the reference 06 disqualification decision, the claimant is no longer aggrieved by the reference 06 decision and has received all remedy potentially available in connection with the appeal. For these reasons, the claimant's appeal from the reference 06 decision is hereby dismissed.

DECISION:

Because the August 28, 2023 (reference 07) decision modified and effectively reversed the August 18, 2023 (reference 06) disqualification decision, the claimant is no longer aggrieved by the reference 06 decision. The claimant's appeal from the reference 06 decision is hereby DISMISSED. The hearing set for September 6, 2023 is CANCELLED.



James E. Timberland
Administrative Law Judge

August 30, 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
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 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.