

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

SHAWNA DUNDEE
Claimant

APPEAL NO. 19A-UI-04455-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CALEB BURNS C/O VERIDIAN CREDIT
UNION**
Employer

OC: 04/14/19
Claimant: Appellant (6R)

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:

Shawna Dundee filed a late appeal from the May 6, 2019, reference 02, decision that allowed benefits effective April 14, 2019 provided she met all other eligibility requirements and that stated the employer's account would not be charged for benefits so long as Ms. Dundee continued in the same employment, based on the deputy's conclusion that Ms. Dundee was not partially unemployed from this employer, but nonetheless met the able and available requirements set forth at Iowa Code section 96.4(3). An appeal hearing was set for June 26, 2019 and the parties were notified at their last known addresses or record. Ms. Dundee registered a telephone number for the appeal hearing. The employer did not register a telephone number for the appeal hearing. Based on the administrative law judge's review of the May 6, 2019, reference 02, and the appeal, the administrative law judge concluded that a hearing on the claimant's appeal from the May 6, 2019, reference 02, decision was unnecessary.

ISSUE:

Whether Ms. Dundee is an aggrieved party for purposes of the May 6, 2019, reference 02, decision.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Dundee established an original claim for benefits that was effective April 14, 2019. On May 6, 2019, an Iowa Workforce Development Benefits Bureau deputy entered a reference 02 decision that allowed benefits to Ms. Dundee effective April 14, 2019 provided she met all other eligibility requirements. That same decision stated that the employer's account would not be charged for benefits in connection with the claim so long as Ms. Dundee continued in the same employment. The deputy's decision was based on the deputy's conclusion that Ms. Dundee was not partially unemployed from this employer, but that she nonetheless met the able and available requirements set forth at Iowa Code section 96.4(3). The deputy's decision directed

the employer to notify Iowa Workforce Development in the event there was a separation from the employment.

In her appeal from the able and available decision that was favorable to her, Ms. Dundee asserts that she was fired from the employment on April 16, 2019.

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 May 6, 2019, reference 02, decision allowed benefits to Ms. Dundee, Ms. Dundee is not aggrieved by the decision. For that reason, Ms. Dundee's appeal from the May 6, 2019, reference 02, decision will be dismissed.

Ms. Dundee's appeal raises a legal issue that was not the basis of the May 6, 2019, reference 02, decision and that has not yet been adjudicated. Based on Ms. Dundee's assertion that there has been a separation from the employment, this matter will be remanded to the Benefits Bureau for adjudication of the employment separation, including its impact on Ms. Dundee's eligibility for benefits and the employer's liability for benefits.

DECISION:

The claimant's appeal from the May 6, 2019, reference 02, decision is dismissed because the claimant is not aggrieved by that decision.

This matter is remanded to the Benefits Bureau for adjudication of the employment separation.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs