

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TANISHA P LACEY
Claimant

APPEAL NO. 08A-UI-06222-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/04/08 R: 04
Claimant: Appellant (1)**

871 IAC 24.2(1)(e) – Failure to Report as Directed
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

Tanisha Lacey appealed from an unemployment insurance decision dated June 23, 2008, reference 02, that denied benefits effective June 15, 2008 due to a failure to report as directed. A telephone hearing was scheduled for July 21, 2008. Ms. Lacey did not respond to the hearing notice instructions and did not participate in the hearing. Based on the appellant's failure to participate in the hearing, the administrative file, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Decision on the record.

FINDINGS OF FACT:

Claimant Tanisha Lacey was properly notified of the scheduled hearing on this appeal. Ms. Lacey failed to provide a telephone number at which she could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. There is no evidence the hearing notice was returned by the postal service as undeliverable for any reason.

The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment insurance decision should be affirmed. The administrative file documents indicate that Workforce Development mailed Ms. Lacey notice on May 27, 2008 that she was required to register for work and/or report to the Davenport Workforce Development Center no later than June 17, 2008. The administrative file documents indicate that Ms. Lacey failed to report and register for work until June 26, 2008. The administrative law judge notes the June 27, 2008, reference 03, decision that allowed benefits effective June 22, 2008.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another

hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. 871 IAC 24.2(1)(e).

The administrative law judge has carefully reviewed evidence in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

The claimant failed to report as directed during the benefit week of June 15-21, 2008. The claimant is ineligible for benefits for that week. This decision does not disturb June 27, 2008, reference 03, decision that allowed benefits effective June 22, 2008.

Pursuant to the rule, the appellant must make a written request to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

DECISION:

The Agency representative's June 23, 2008, reference 02, decision is affirmed. The claimant failed to report as directed during the benefit week of June 15-21, 2008. The claimant is ineligible for benefits for the week that ended June 21, 2008. This decision does not disturb June 27, 2008, reference 03, decision that allowed benefits effective June 22, 2008. This decision will become final unless a written request establishing good cause to reopen the record is made to the administrative law judge within 15 days of the date of this decision.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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