

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

Appeal Number: 13IWDUI360
OC: 05/05/13
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, 4TH 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.

DECISION OF THE ADMINISTRATIVE LAW JUDGE

ZAKARIA BAHAJ
4329 OVID AVENUE
DES MOINES IA 50310-3543

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
SHANLYN SEIVERT & RENALDO ELLIS

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.

TEREA K. HILLARY, IWD

(Administrative Law Judge)

August 27, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Zakaria Bahaj filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated June 24, 2013, reference 02. In this decision, the Department determined that Mr. Bahaj was ineligible to receive unemployment insurance benefits effective June 16, 2013 because he failed to participate in a reemployment and eligibility assessment. The decision stated that an appeal must be filed by July 4, 2013 to be considered timely. Mr. Bahaj filed an appeal on July 19, 2013.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on July 24, 2013 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on July 30, 2013. On August 26, 2013 at 1:30 p.m., a telephone appeal hearing was held before Administrative Law Judge John M. Priester. Reemployment services advisor Renaldo Ellis represented the

Department and presented testimony. The administrative file was admitted into the record as evidence. Mr. Bahaj was provided instructions to participate in the hearing, but did not call in to do so. He did call in at 9:00 a.m. that morning and was instructed to call back at 1:30 p.m. After waiting 5 minutes for his call the hearing was held in his absence.

ISSUES

1. Whether the Appellant filed a timely appeal.
2. Whether the Department corrected determined the claimant is ineligible to receive unemployment insurance benefits.
3. Whether the Department correctly determined that the Appellant did not establish justifiable cause for failing to participate in reemployment services.

FINDINGS OF FACT

Zakaria Bahaj filed a claim for unemployment insurance benefits with an effective date of May 5, 2013. On June 24, 2013, the Department issued a decision denying benefits to Mr. Bahaj effective June 16, 2013 because of his failure to report to a reemployment and eligibility assessment on June 19, 2013. The decision states that it becomes final unless an appeal is postmarked or received by the Department by July 4, 2013.

Mr. Bahaj filed an appeal of the Department's decision. The appeal letter was dated on July 17, 2013 and received by the Department on July 19, 2013.

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.¹ The Iowa Supreme Court has determined that timely appeal is both mandatory and jurisdictional.²

The evidence demonstrates that the appeal was received July 19, 2013, after the deadline for appeal had passed for the decision at issue. Since the appeal was not filed timely, I do not have jurisdiction to consider whether the Department was correct in disqualifying Mr. Bahaj from receiving unemployment insurance benefits due to his failure to attend the reemployment and eligibility assessment.

DECISION

Mr. Bahaj's appeal is dismissed because it was not timely filed.

jmp

¹ 871 Iowa Administrative Code (IAC) 26.4(2).

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