

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

BOUTTHI B LEUANG
Claimant

APPEAL NO. 24A-UI-03327-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 02/18/24
Claimant: Appellant (6)**

Iowa Code Section – 96.4(3) – Able & Available
Iowa Code Section 96.6 Aggrieved Party Requirement
Iowa Administrative Code Rule 87126.8(1) – Dismissal of Appeal, No Aggrieved Party

STATEMENT OF THE CASE:

On March 26, 2024, Boutthi Leuang filed a late appeal from the March 8, 2024 (reference 05) decision that denied benefits effective March 3, 2024, based on an IWD representative's determination that the claimant failed to report as directed for a March 7, 2024 reemployment and eligibility assessment (RESEA) and, therefore, did not meet the availability requirement effective March 3, 2024. An appeal hearing was set for April 18, 2024 and the parties were appropriately notified. On April 5, 2024, IWD reemployment services personnel requested that the appeal be dismissed and provided a copy of the April 5, 2024 (reference 09) decision. Upon review of the appeal and the reference 05 and 09 decisions, the administrative law judge determined an appeal hearing is unnecessary and that the appeal may be dismissed.

ISSUES:

Whether the claimant is aggrieved by the March 8, 2024 (reference 05) disqualification decision in light of the April 5, 2024 (reference 09) decision.
Whether the appeal should be dismissed.

FINDINGS OF FACT:

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

On March 26, 2024, Boutthi Leuang filed a late appeal from the March 8, 2024 (reference 05) decision that denied benefits effective March 3, 2024, based on an IWD representative's determination that the claimant failed to report as directed for a March 7, 2024 reemployment and eligibility assessment (RESEA) and, therefore, did not meet the availability requirement effective March 3, 2024.

On April 5, 2024, IWD entered a reference 09 decision that allows benefits for the period beginning March 3, 2024, provided the claimant is otherwise eligible, based on a determination that the claimant had been disqualified for benefits in connection with the failure to report as

directed but since that time had participated in the assessment. The reference 09 decision modified and effectively reversed the reference 05 decision from which the clamant 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 87126.8(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.”

The reference 09 decision modified and effectively reversed the reference 05 decision from which the clamant appeals in the present matter. Through the reference 09 decision, the claimant received all remedy potentially available in connection with the appeal. The claimant is no longer aggrieved by the reference 05 decision and there is no longer a basis for the appeal in this matter. For these reasons, the appeal is dismissed.

DECISION:

The claimant’s appeal from the March 8, 2024 (reference 05) decision is DISMISSED. Because the reference 09 decision modified and effectively reversed the reference 05 decision, the claimant is no longer aggrieved by the reference 05 decision. The reference 09 decision remains in effect. The hearing set for April 18, 2024 is CANCELED.



James E. Timberland
Administrative Law Judge

April 12, 2024
Decision Dated and Mailed

JET/jkb

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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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.