

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOUGLASS G ADAMS
Claimant

APPEAL 16A-UI-10933-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 09/11/16
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.2(1)e – Notice to Report
Iowa Admin. Code r. 871-24.23(11) – Failure to Report

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 29, 2016, (reference 03), unemployment insurance decision that denied benefits as of September 25, 2016, because of a failure to report as directed. After due notice was issued, a telephone conference hearing was scheduled to be held on October 24, 2016. Claimant participated. Official notice was taken of the administrative record of claimant's continued claims, with no objection.

ISSUES:

Is the claimant able to and available for work?

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: Prior to September 27, 2016, a notice was mailed to the claimant to be available for a fact finding interview on September 27, 2016, at 11:00 a.m. Claimant did not attend the fact finding interview. Claimant testified that his wife usually retrieves their mail. Claimant then usually gets his mail from his wife a day or two later because of their different schedules. Claimant did not receive the notice of the fact finding interview from his wife until the evening of September 27, 2016, which was after the fact finding interview had taken place.

Claimant filed a weekly continued claim online for the week ending September 17, 2016. During the filing of the claim for the week at issue, claimant pushed a button in error indicating he was not able to and available for work. Claimant was taking classes through the union hall and once the classes are finished he goes back to work. The classes allow him to progress through his apprenticeship. Claimant is willing and able to work, but he has to take these classes.

Claimant has to take these classes through the union. Claimant is on a temporary layoff from the contractor so he can attend the classes. Once the classes are completed he goes back to

work for the contractor. Claimant is not paid while he is attending the classes. Claimant did go back to work with the contractor and is currently working for the contractor; it is a full-time job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying issue was the result of a reporting error, and claimant has established a good cause reason for having failed to report as directed.

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.2(1)e provides:

e. 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. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

The department retains the ultimate authority to choose the method of reporting and payment.

Iowa Admin. Code r. 871-24.23(11) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(11) Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements.

Claimant incorrectly indicated he was not able and available for work for the week ending September 17, 2016. Since claimant did not receive the notice of the fact finding interview until after the interview took place, he has established a good cause reason for failing to report as directed. Benefits are allowed.

DECISION:

The September 29, 2016, (reference 03) unemployment insurance decision is reversed. Claimant has established a good cause reason for failing to report as directed. The underlying issue was the result of a reporting error. Benefits are allowed effective September 25, 2016, provided claimant is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs