

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

CAYLA ORTH
Claimant

APPEAL 22A-UI-13043-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

OC: 11/07/21
Claimant: Respondent (2R)

Iowa Code § 96.4(3) – Eligibility – Able to, available for, work search
Iowa Admin. Code r. 871-24.2(1)e – Eligibility – A&A – Failure to report
Iowa Admin. Code r. 871-24.23(11) – Eligibility – A&A – Failure to report

STATEMENT OF THE CASE:

Employer filed an appeal from the May 16, 2022 (reference 03) unemployment insurance decision that allowed benefits effective April 24, 2022 finding claimant had since reported for a quality control interview. The parties were properly notified of the hearing. A telephone hearing was held on August 5, 2022. Claimant did not participate. Iowa Workforce Development (IWD) did not participate. Employer participated through Jessica Segner, Unemployment Coordinator, and Steph Heater, Branch Manager. Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is able to and available for work.
Whether claimant failed to report as directed by a department representative.

FINDINGS OF FACT:

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

Claimant filed an original claim for unemployment insurance benefits effective November 7, 2021 and an additional claim effective April 24, 2022. Employer was notified of the additional claim via the State Information Data Exchange System (SIDES) on April 20, 2022. Employer protested the additional claim via SIDES on May 4, 2022 on the basis that claimant voluntarily quit her employment on April 21, 2022.

A fact-finding interview was held on May 13, 2022. Claimant and employer participated and provided information regarding claimant's separation. On May 16, 2022, IWD issued a decision (reference 03) allowing claimant benefits effective April 24, 2022 finding claimant was disqualified when she failed to report for a quality control interview but has since reported. There is no record of a quality control interview.

No decision has been issued regarding claimant's April 21, 2022 separation from employer. When claimant's assignment ended on April 21, 2022, employer asked claimant if she wanted

another assignment. Claimant responded that she needed to check with her boyfriend because they share a vehicle.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

An individual claiming benefits has the burden of proof that she is able to and available for work. Iowa Admin. Code r. 871-24.22. Claimant has not met that burden in this case. Accordingly, she is not eligible for benefits effective April 24, 2022.

The issue of whether claimant's April 21, 2022 separation is disqualifying should be remanded to the Benefits Bureau of IWD for determination.

DECISION:

The May 16, 2022 (reference 03) unemployment insurance decision is REVERSED. Claimant is not able to and available for work. Benefits are denied effective April 24, 2022 and continuing until claimant establishes she is able to and available for work.

REMAND:

The issue of claimant's April 21, 2022 separation from employer is remanded to the Benefits Bureau of IWD for determination.



Adrienne C. Williamson
Administrative Law Judge

September 23, 2022
Decision Dated and Mailed

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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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: 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 adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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.