

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANGELO E VONMOORE**  
Claimant

**APPEAL NO. 15A-UI-08022-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/26/15**  
**Claimant: Appellant (2)**

871 IAC 24.2(1)e – Failure to Report  
Section 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

D'Angelo VonMoore (claimant) appealed a representative's June 16, 2015, decision (reference 05) that concluded he had failed to respond to a letter of inquiry and was, therefore, not eligible to receive unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on August 14, 2015. The claimant participated personally. Exhibit D-1 and D-2 were received into evidence.

**ISSUE:**

The issue is whether the appeal was filed in a timely manner and, if so, whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: On May 28, 2015, a letter of inquiry was mailed to the claimant to respond to IWD by June 11, 2015. The claimant received mail twice per week but never received the letter of inquiry. The letter said that for the week ending May 23, 2015, the claimant indicated he refused work. If the claimant had received the letter of inquiry, he would have responded that he did not refuse work. His response was in error.

A disqualification decision was mailed to the claimant's last-known address of record on June 16, 2015. He did not receive the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by June 26, 2015. The appeal was not filed until July 15, 2015, which is after the date noticed on the disqualification decision.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of § 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to § 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to § 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

The claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). Therefore, the appeal shall be accepted as timely.

For the reasons that follow, the administrative law judge concludes the claimant has established a good-cause reason for having failed to report as directed.

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 financial institution's account 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.

The claimant was directed to report to the Agency and he did not. When a claimant does not report as directed by a letter of inquiry, will not be qualified to receive benefits. The claimant is eligible to receive unemployment insurance benefits because he did not receive the IWD letter of inquiry. The claimant had good cause for not reporting.

**DECISION:**

The June 16, 2015, reference 05, decision is reversed. The appeal in this case was timely. The claimant is eligible to receive unemployment insurance benefits because he did not receive IWD's letter of inquiry.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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