

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES D HARPER
Claimant

APPEAL 16A-UI-07908-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/05/16
Claimant: Appellant (2R)**

Iowa Code § 96.4(3) – Able and Available
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 a timely appeal from the July 15, 2016, (reference 04) unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was set for August 8, 2016. Claimant participated. Claimant's Exhibit A was received.

ISSUE:

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: On July 8, 2016, a notice was mailed to the claimant to be available for a call from IWD on July 14, 2016, about his report that he quit a job during the week ending July 2, 2016. Claimant missed the phone call because he was undergoing a tonsillectomy. Claimant was separated from employment from KLK Construction in Pella, Iowa during the week ending July 2, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

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.

Since claimant was unavailable to participate in the hearing due to medical reasons, claimant has established a good cause reason for failing to report as directed. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The July 15, 2016, (reference 04) unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. Benefits are allowed effective July 10, 2016, provided he is otherwise eligible.

REMAND:

Claimant has recently been separated from employment with KLK Construction, 646 Highway T14, Pella, Iowa 50219. There has been no initial decision on whether that separation disqualifies claimant from receiving benefits. This issue is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/