

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD M SPIERENBURG
Claimant

APPEAL NO. 14A-UI-03413-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/08/13
Claimant: Appellant (2)

Section 96.4-3 - Able to and Available for Work
871 IAC 24.23(11) - Failure to Report as Directed

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 7, 2014, reference 01, that concluded he was ineligible for benefits effective February 16, 2014, because he did not report to the Agency as directed. A telephone hearing was held on April 22, 2014. The claimant participated in the hearing.

ISSUES:

Did the claimant fail to report to the Agency as directed?
Is the claimant able to and available for work?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 8, 2013. He was informed and understood that under the unemployment insurance rules, claimants could be disqualified for failing to report to the Agency as directed.

The claimant reopened his claim for unemployment insurance benefits during the week of February 16, 2014. In his application, he mentioned he was in the process of building a booking-promotional agency.

As a result of his comment, on February 27, 2014, the Agency sent the claimant a notice of a telephone interview to be held on March 6 on the issue of self-employment. The claimant never received the notice and was unaware of the interview. When the representative called the claimant, he could not answer because he was driving.

The claimant is involved in finding a full-time job and has contacted two employers each week. He has a bachelor's degree in fine arts and has student teaching to complete for a teaching certificate. He has several years' experience as a restaurant server and has been applying for jobs as a server.

In addition to his efforts to find another job, he has spent about 12 hours per week trying to get a music booking and promotion business started, which has not interfered with his ability to find other employment.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is ineligible for benefits because he did not report to the Agency as directed.

The unemployment insurance law provides that a claimant must be able to work, available for work, and actively seeking employment. Iowa Code Section 96.4-3. Under the unemployment insurance rules, a claimant who fails to report as directed to the Agency in response to a notice mailed to the claimant is deemed unavailable for work. 871 IAC 24.23(11).

In this case, the claimant is not subject to disqualification for failing to report as directed because he was not notified about the interview.

871 IAC 24.23(7) provides:

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

(7) Where an individual devotes time and effort to becoming self-employed.

While the rule suggests that any amount of time and effort to become self-employed is disqualifying, it is only if the amount of time and effort prevents the claimant from securing full-time work in an employer-employee relationship that a claimant is ineligible for benefits. Based on the evidence, the 12 hours per week the claimant spends working on his music business has not interfered with his efforts to find full-time employment. He is qualified for benefits, if he is otherwise eligible.

Since the claimant has not filed any weekly claims since February 22, 2014, he must reopen his claim and start filing weekly claims to receive benefits.

DECISION:

The unemployment insurance decision dated March 7, 2014, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits effective February 16, 2014, if he is otherwise eligible. Since the claimant has not filed any weekly claims since February 22, 2014, he must reopen his claim and start filing weekly claims to receive additional benefits.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs