

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KELLY J ERNZEN**  
Claimant

**APPEAL NO. 07A-UI-10169-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 09/02/07 R: 04  
Claimant: Appellant (2)**

871 IAC 24.2-1-e – Failure to Report

**STATEMENT OF THE CASE:**

Kelly J. Ernzen (claimant) appealed a representative's October 31, 2007 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits because she had not responded to an Agency notice to respond to an issue relating to her eligibility. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on November 20, 2007. This appeal was consolidated for hearing with one related appeal, 07A-UI-10170-DT. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Is the claimant disqualified from receiving unemployment insurance benefits for a failure to report as directed?

**FINDINGS OF FACT:**

The claimant established an initial claim for unemployment insurance benefits effective September 2, 2007. She filed weekly claims for the weeks ending September 8, September 15, and September 22, 2007. On October 8, 2007 the Agency sent the claimant an Unemployment Insurance Notice to Report scheduling a telephone interview with an Agency representative to be held between 9:00 a.m. and 10:00 a.m. on October 22, 2007. The question to be addressed was the claimant's response on her claim for the week ending September 15, 2007 that she had a separation from employment that week.

The claimant received the Notice and responded with a letter she mailed to the Agency on or about October 15 indicating that she would be working in a temporary assignment at the time and date scheduled for the interview and asking for it to be rescheduled. In the alternative, in the letter she gave her cell phone number to be called for the interview rather than the home number that was listed on the Notice. She did not receive a call from the representative on her cell phone on October 22. Rather, the representative, apparently not having received the claimant's letter, called and left a message on the claimant's home answering machine at

approximately 9:37 a.m. The claimant returned home from work in the early afternoon and received the message. She then attempted to return the call to the Agency representative at the number he had left in his message; however, she only reached his voice mail. She left a message again indicating she was now available and additionally giving her cell phone number, but she did not hear back from the representative.

The claimant's response on her weekly claim for the week ending September 15, 2007 was due to a misinterpretation as to the underlying question. She understood the question as asking whether she had been separated from employment at all, rather than whether she had suffered some additional separation from employment that week. In fact, her only current separation at that time was her September 7, 2007 separation from her most recent full time employer.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant can be found ineligible for unemployment insurance benefits for a failure to report as required.

871 IAC 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 and the payment of benefits, provided the individual is otherwise eligible, shall be on a biweekly basis by mail if the claimant files a Form 60-0151.

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.

871 IAC 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 did respond appropriately to the notice to report. Benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's October 31, 2007 decision (reference 03) is reversed. The claimant did appropriately respond and report after receiving the Agency notice. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/css