

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVE CLARK**  
Claimant

**APPEAL NO: 15A-UI-12079-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/11/15**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the October 13, 2015, reference 10, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 13, 2015. The claimant participated in the hearing. Department's Exhibit D-1 was admitted into evidence.

**ISSUES:**

The issues are whether the claimant's appeal is timely and whether he is able and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last-known address of record on October 13, 2015. The claimant did not receive the decision until October 29, 2015, because he was working seven, ten-hour days in Burlington and was not home to receive his mail until that date. While the decision contained a warning that an appeal must be postmarked or received by the Appeals Section by October 23, 2015, the claimant could not meet that deadline as he was working out of town. Once he returned home October 29, 2015, and retrieved his mail he went to his local Workforce office in Davenport and filed his appeal the following day, October 30, 2015. Under these circumstances, the administrative law judge concludes the claimant's appeal is timely.

The claimant was experiencing problems with his cell phone and believes that resulted in the system recording he was not able and available for work when he called in his weekly claim the week ending September 12, 2015. The claimant was able and available, however, and was laid off that week.

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

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective the week ending September 12, 2015.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 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".

The claimant was having problems with his phone and was forced to buy a new phone October 30, 2015, because of issues occurring when he called in his weekly claim for benefits. The phone problems resulted in the Department believing he indicated he was not able and available for work the week ending September 12, 2015, when he made his weekly claim and that was not accurate. He was laid off the week ending September 12, 2015, and is able and available for work. Accordingly, benefits are allowed effective the week ending September 12, 2015.

## **DECISION:**

The October 13, 2015, reference 10, decision is reversed. The claimant's appeal is timely. The claimant is able to work and available for work effective the week ending September 12, 2015. Benefits are allowed.

---

Julie Elder  
Administrative Law Judge

---

Decision Dated and Mailed

je/css