

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LELAND B ELLIOTT
Claimant

APPEAL 17A-UI-06551-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/28/17
Claimant: Appellant (2)**

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
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Admin. Code r. 871-24.19(3) – Claims Bureau Subsequent Action

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 23, 2017, (reference 03) unemployment insurance decision that found the claimant ineligible to receive benefits for his failure to report as directed. The claimant was properly notified about the hearing. A telephone hearing was held on July 17, 2017. The claimant participated personally. Claimant Exhibit A was received into evidence. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records as well as the fact-finding documents. Before the hearing date, the claimant received favorable decisions from Iowa Workforce Development, dated July 3, 2017, reference 04 and reference 05. Therefore, no testimony or additional evidence was necessary. No hearing was needed.

ISSUE:

The issue is whether the representative's decision should be affirmed.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

A reference 03 initial decision dated June 23, 2017 was rendered, and found the claimant ineligible for benefits, based upon a failure to report as directed. As a result he was deemed not to meet the availability requirements. The reason the claimant needed to report was to provide information about his receipt of a pension. The claimant appealed the decision. On July 3, 2017, the Appeals Bureau issued and mailed a notice of hearing to the claimant based on his appeal.

On the same day, the Benefits Bureau issued two additional initial decisions (Reference 04 and Reference 05). The reference 04 decision concluded the claimant had established good cause

for failure to report as directed, and found him eligible for benefits. (It made no reference to amending or nullifying the Reference 03 decision). Then a reference 05 decision, also dated July 3, 2017, was rendered, addressing the underlying issue of a receipt of a pension. The decision was favorable to the claimant. As a result, the decision appealed has been amended in favor of the appellant by the reference 04 and 05 representative's decisions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the representative's decision should be reversed.

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 section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 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 section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

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 account at a financial institution 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 reference 03 decision appealed has been amended in favor of the appellant by the reference 04 and 05 representative's decisions. Since the decision appealed has been amended in favor of the appellant, the original representative's decision bearing reference 03 is reversed.

DECISION:

The June 23, 2017, (reference 03) unemployment insurance decision is reversed. Benefits are allowed, provided he otherwise meets the eligibility requirements.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn