

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEITH P GOERDT
Claimant

APPEAL 17A-UI-13040-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/18/16
Claimant: Appellant (2)**

Iowa Code § 96.6(2) – Timeliness of Appeal
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 an appeal from the April 14, 2017, (reference 01) 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 January 12, 2018. Claimant participated. Official notice was taken of the administrative record.

ISSUES:

Is the appeal timely?
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: Claimant filed a claim with an original claim date of December 18, 2016. When claimant entered his weekly continued claim for the week ending April 1, 2017, he indicated he refused an offer of work. Claimant made this indication in error and did not refuse an offer of work that week.

On April 7, 2017, a notice was mailed to the claimant to be available for a call from IWD on April 13, 2017, about a reported job refusal for the week ending April 1, 2017. The claimant did not report because the claimant did not receive the notice.

A decision finding claimant ineligible for unemployment insurance benefits as of April 9, 2017, because of a failure to report to the department as directed was mailed to claimant's last known address of record on April 14, 2017. Claimant did not receive the decision and did not continue filing weekly claims as he obtained employment. Therefore, claimant was not aware a decision denying him benefits had been issued until he reopened his claim at the end of 2017. Claimant reopened his claim effective November 26, 2017. By December 19, 2017, claimant had not

received any benefit payments, so he contacted the agency. On that date he learned of the denial decision and filed an appeal the same day.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The appellant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant appealed the decision as soon as he became aware of it on December 19, 2017. Therefore, the appeal shall be accepted as timely.

The second issue is whether claimant failed to report as directed to a department representative. For the reasons that follow, the administrative law judge concludes the underlying issue was the result of a reporting error, and the claimant has established a good cause reason for having failed to report as directed.

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 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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or on a selected debit card.

(2) 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.

(3) 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.

Since he did not receive the notice, claimant has established a good cause reason for failing to report as directed.

DECISION:

The April 14, 2017, (reference 01) unemployment insurance decision is reversed. The appeal is timely. The claimant has established a good cause reason for failing to report as directed. The underlying issue was the result of a reporting error. Benefits are allowed effective April 9, 2017, provided he is otherwise eligible.

Christine A. Louis
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Decision Dated and Mailed

cal/scn