

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FOSTER H ELLIS
Claimant

APPEAL 18A-UI-11423-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 10/28/18
Claimant: Appellant (2R)**

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/appellant filed an appeal from the November 20, 2018 (reference 02) unemployment insurance decision that denied benefits because claimant failed to report as directed. After due notice was issued, a telephone hearing was held on December 11, 2018. The claimant participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Is the claimant able to work and available for work effective November 18, 2018?
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 his initial claim for benefits effective October 28, 2018 due to a permanent separation from employment with Guardian Building Products. Claimant receives a pension from the Air Force, which has yet to be the subject of an initial investigation and determination regarding its deductibility from unemployment insurance benefits.

A notice was mailed to the claimant for him to be available for a call from Iowa Workforce Development ("IWD") on November 19, 2018 at 9:10 a.m. However, claimant did not receive the notice in the mail until after the date and time set for the interview. When he received the notice he contacted his local IWD office that same day and was instructed to contact the telephone number on the letter. He contacted the telephone number on the letter and was unable to leave a message for any representative.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has established a good cause reason for having failed to report as directed because he did not receive the notice to report regarding the underlying issue prior to the interview date and time.

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

Iowa Admin. Code r. 871-24.2(1)e provides in part:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

(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.

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.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. Claimant established a good cause reason for his failure to report as directed. The underlying issue involving the investigation and determination regarding claimant's receipt of pension shall be remanded to the Benefits Bureau for an initial fact-finding interview and determination.

DECISION:

The November 20, 2018 (reference 02) decision is reversed. The claimant has established a good cause reason for failing to report as directed. Benefits are allowed effective November 18, 2018, provided the claimant is otherwise eligible.

REMAND:

The pension issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development to schedule a fact-finding interview with notice and opportunity to be heard provided to the claimant. Claimant's group code shall also be changed to Group Code "6".

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs