

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSHUA J WILLEY
Claimant

**IOWA WORKFORCE DEVELOPMENT
RESEA**

APPEAL 24A-UI-02222-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/28/24
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Eligibility – Able to, available for, work search
Iowa Admin. Code r. 871-24.2(1)e – Eligibility – A&A – Notice to report
Iowa Admin. Code r. 871-24.23(11) – Eligibility – A&A – Failure to report

STATEMENT OF THE CASE:

Claimant Joshua J. Willey filed an appeal from the February 22, 2024 (reference 03) unemployment insurance decision that found claimant was not eligible for unemployment benefits because claimant failed to report as directed for an appointment with Iowa Workforce Development (“IWD”). The parties were properly notified of the hearing. Administrative Law Judge Elizabeth A. Johnson held a telephone hearing at 10:00 a.m. on Thursday, March 21, 2024. The claimant participated personally. IWD Exhibits 1 and 2 were admitted. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUES:

Whether claimant is able to and available for work.
Whether claimant failed to report as directed by a department representative.

FINDINGS OF FACT:

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

The claimant filed a claim for unemployment insurance benefits with an effective date of January 28, 2024. Subsequently, he was sent a letter to report for a reemployment services appointment on February 20, 2024. Claimant reached out to the IWD local office in his area after he received the letter, because by the time he got the letter he had already obtained and started a new job. The person he spoke to told him she would cancel the appointment. She also canceled an upcoming RESEA career planning meeting for him at that time.

Claimant began working at Jewell Group on February 6, 2024. He has not filed any weekly continued claims for benefits since returning to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was excused from reporting for the scheduled appointment. However, because claimant had returned to employment at the time of the workshop, he was not available for work.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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:

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

1. 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) and (23) provide:

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.

23. The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

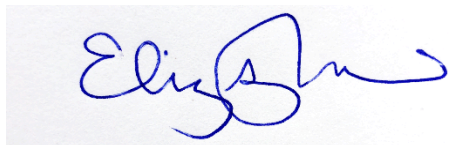
For an unemployed individual to be eligible to receive benefits, they must be able to work, available for work, and actively seeking work as required by the unemployment insurance law.

Iowa Code § 96.4(3). The burden is on the claimant to establish that they are able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

In this case, claimant spoke to someone at the IWD local office who excused him from reporting for the scheduled appointment. This would be a good-cause reason for failing to report as directed. Here, however, claimant had already returned to the workforce and stopped filing weekly claims for benefits. A claimant who is working the majority of the workweek has removed themselves from the labor market. For that reason, claimant was not available for work. Benefits are withheld.

DECISION:

The February 22, 2024 (reference 03) unemployment insurance decision is affirmed. Claimant had been excused from the obligation to report for the IWD appointment, as he had obtained and begun full-time employment. Because claimant was employed and working full time, he was not available for work. Benefits remain withheld effective February 18, 2024.



Elizabeth A. Johnson
Administrative Law Judge

March 25, 2024
Decision Dated and Mailed

lj/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.