

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEREMY A VILLA
Claimant

APPEAL 20A-UI-00616-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/01/19
Claimant: Appellant (4-R)

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:

On January 22, 2020, Jeremy A. Villa (claimant) filed an appeal from the January 17, 2020, reference 05, unemployment insurance decision that denied benefits effective January 12, 2020 because of a failure to report as directed. After due notice was issued, a telephone conference hearing was held on February 6, 2020. The claimant participated. No exhibits were offered into the record.

ISSUE:

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: Iowa Workforce Development (IWD) mailed a notice to the claimant to be available for a call on January 16, 2020 to discuss a potential pension payment. The claimant received the notice but did not answer when called at the number provided because his phone was likely set to silent or he thought it was a telemarketer.

The next week, the claimant received the unemployment insurance decision that denied benefits. He contacted IWD and was advised to file an appeal. The claimant's appeal was filed on January 22.

The claimant reported that he received pension pay during the week ending December 28, 2019. He received a lump sum payment from the employer with whom he is currently on temporary layoff. Whether the lump sum received is pension or wages and deductible from unemployment insurance benefits has not been adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has not established a good cause reason for having failed to report as directed during the week ending January 18, 2020 and benefits for that week are denied. The claimant reported to IWD the following week. Benefits are allowed effective January 19, 2020, provided the claimant is otherwise eligible.

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, in relevant part:

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.

....

(2) 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.

An individual claiming benefits has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. The claimant did not report as directed during the week ending January 18 and has not provided a good cause reason for failing to report. Accordingly, benefits are denied for the week ending January 18, 2020. The claimant reported to IWD the following week. Benefits are allowed effective January 19, 2020, provided he is otherwise eligible.

Whether the lump sum payment the claimant received from his current employer in December 2019 is pension or wages and deductible from unemployment insurance benefits is remanded for a fact-finding interview to include the claimant and Heying Firms, Inc. (employer) and an unemployment insurance decision with appeal rights to both parties.

DECISION:

The January 17, 2020, reference 05, unemployment insurance decision is modified in favor of the appellant. The claimant has not established a good cause reason for having failed to report as directed during the week ending January 18, 2020 and benefits for that week are denied. The claimant reported to IWD the following week. Benefits are allowed effective January 19, 2020, provided the claimant is otherwise eligible.

REMAND:

Whether the lump sum payment the claimant received from his current employer in December 2019 is pension or wages and deductible from unemployment insurance benefits is remanded for a fact-finding interview to include the claimant and Heying Firms, inc. (employer) and an unemployment insurance decision with appeal rights to both parties.



Stephanie R. Callahan
Administrative Law Judge

February 14, 2020
Decision Dated and Mailed

src/rvs