

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DANIEL NENOW
Claimant

APPEAL NO. 22A-UI-03882-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/5/21
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available
871 IAC 24.2(1)(e) – Failure to Report as Directed

STATEMENT OF THE CASE:

On January 21, 2022, Daniel Nenow (claimant) filed a timely appeal from the January 18, 2022 (reference 01) decision that denied benefits effective January 9, 2022, based on the deputy's conclusion that the claimant failed to report as directed on January 14, 2022. After due notice was issued, a hearing was held on March 14, 2022. Claimant participated. Exhibit A was received into evidence. The administrative law judge took official notice of the relevant Agency administrative records.

ISSUES:

Whether the claimant failed to report to Iowa Workforce Development as directed on January 14, 2022 and, therefore, did not meet the available for work requirement effective January 9, 2022.

Whether the claimant continues to be aggrieved by the January 18, 2022 (reference 01) decision in light of the entry of the February 2, 2022 (reference 02) decision.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an additional claim for benefits that was effective November 28, 2021 in connection with a benefit year that began December 6, 2020. When the claimant made his weekly claim for the benefit week that ended December 4, 2021, the claimant answered yes to the question of whether he had refused work.

The claimant established a new benefit year that was effective December 5, 2021.

On January 6, 2022, Iowa Workforce Development mailed a notice to the claimant regarding a one-party, telephonic fact-finding interview set for 2:50 p.m. on January 14, 2022. The claimant did not receive the notice until after the fact-finding interview date. The claimant did not receive a telephone call for the fact-finding interview. The deputy assigned to the fact-finding interview documented that the deputy was unable to leave a message for the claimant. In response to the claimant's unavailability for the fact-finding interview, the deputy entered the reference 01

decision that denied benefits effective January 9, 2022, based on the deputy's conclusion that the claimant failed to report as directed on January 14, 2022.

After the claimant received the notice of the fact-finding interview and the decision that denied benefits, the claimant contacted Iowa Workforce Development in an attempt to resolve the issue with his claim for the week that ended December 4, 2021 and the alleged failure to appear for the January 14, 2022 fact-finding interview. IWD concluded the issue with the claim for week that ended December 4, 2021 was just a mistaken response and that the claimant had not refused work that week. On February 1, 2022, an IWD Benefits Bureau deputy issued a reference 02 decision that was mailed to the claimant on February 2, 2022. The reference 02 decision allowed benefits to the claimant effective January 9, 2022, provided the claimant was otherwise eligible. In other words, the reference 02 decision effective reversed the 01 decision concerning the alleged failure to appear as directed.

REASONING AND CONCLUSIONS OF LAW:

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. ...

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. Iowa Administrative Code rule 871-24.2(1)(e). 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. Iowa Administrative Code rule 871-24.23(11).

The claimant did not fail to appear as directed on January 14, 2022. The claimant did not receive the notice regarding the January 14, 2022 fact-finding interview until after the appointed time and date had passed. The claimant then made a good faith effort to resolve the issue. IWD acknowledged the same by entering the February 2, 2022 (reference 02) decision that effective reversed the January 18, 2022 (reference 01) decision. No disqualification will enter concerning the purported failure to appear on January 14, 2022. The claimant is eligible for benefits effective January 9, 2022, provided the claimant meets all other eligibility requirements. This decision echoes the February 2, 2022 (reference 02) decision, but makes more explicit what transpired to lead to that decision.

DECISION:

The January 18, 2022 (reference 01) decision is reversed. The claimant did not fail to appear as directed on January 14, 2022. The claimant is eligible for benefits effective January 9, 2022, provided the claimant meets all other eligibility requirements. This decision echoes the February 2, 2022 (reference 02) decision, but makes more explicit what transpired to lead to that decision.



James E. Timberland
Administrative Law Judge

March 28, 2022
Decision Dated and Mailed

jet/jh