

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
Division of Administrative Hearings  
Lucas State Office Building  
Des Moines, Iowa 50319

**Appeal Number: 07-IWDUI-019**  
**OC: 11/05/06**  
**Claimant: Appellant (4)**

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor Lucas Building, Des Moines, Iowa 50319**.

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.

**PETER F ST.GERMAIN**  
**414 EAST STATE STREET APT#3**  
**MASON CITY IA 50401-3542**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT**  
**QUALITY CONTROL**  
**1000 EAST GRAND AVENUE**  
**DES MOINES IA 50319-0209**

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.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

DAN ANDERSON, IWD

---

(Administrative Law Judge)

February 9, 2007

---

(Decision Dated & Mailed)

---

Section 96.4-3 - Able and Available  
871 IAC 24.2(1)e – Failure to report

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development Department decision dated January 9, 2007, reference 06, which held the claimant ineligible for benefits effective December 31, 2006, because he failed to report to a call-in notice for a telephone interview.

The hearing was held pursuant to due notice on February 5, 2007, by telephone conference call. The claimant participated. Randy Cramer, Auditor, participated on behalf of Iowa Workforce Development.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having considered all of the evidence in the record, finds that: The claimant filed a claim for unemployment insurance benefits effective November 5, 2006. Quality Control, Iowa Workforce Development, randomly selected the claimant's claim for review, and the matter was assigned to Auditor Cramer.

Investigator Cramer mailed a Notice to Report to the claimant at his address of record on December 28, 2006. The Notice advised the claimant to be available for a telephone interview at 9:00 am. on January 4, 2007 at a telephone number he provided. The Notice further advised the claimant that a failure to report for the interview would result in a denial of benefits.

When Cramer called the claimant for the January 4 interview, he received a message that the number had been disconnected. Cramer located another number that he called, and a lady who identified herself as the claimant's fiancé, answered, stating the claimant was not there; she also stated that he had received the interview notice. Cramer gave instructions for the claimant to call him, should he become available. When Cramer did not hear from the claimant, the department issued the decision.

The claimant contacted a department supervisor on January 16, and she forwarded an e-mail to Cramer with a new number. Cramer called and interviewed the claimant on the same day, and he found no eligibility issues, such that the disqualification was removed effective January 14, 2007 by the issuance of a department decision dated January 17.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and 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 96.19, 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".

#### **871 IAC 24.2 Procedures for workers desiring to file a claim for benefits for unemployment insurance provides:**

24.2(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 unemployment, an individual shall report as directed to do so by an authorized representative of the department.

The administrative law judge concludes that the claimant is disqualified for a 2-week period ending January 13, 2007, for failing to report as directed by the department for a telephone interview pursuant to 871 IAC 24.2(1)e, and Iowa Code section 96.4-3. The claimant corrected this matter by participating in a telephone interview, and the disqualification was limited to two weeks, and the claimant was reinstated to benefit status. Auditor Cramer established through the claimant's lady-friend that he received the notice, and was not available for the telephone interview.

**DECISION:**

The decision of the representative dated January 9, 2007, reference 06, is MODIFIED in favor of the claimant. The claimant is disqualified from receiving benefits for the two weeks ending January 13, 2007 in accordance with a department decision dated January 17, for failing to report for an in-person interview.

rls