

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NICOLETTE R PARKER
Claimant

APPEAL 16A-UI-11721-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 08/28/16
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
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 filed an appeal from the October 25, 2016, (reference 02) unemployment insurance decision that denied benefits as of October 23, 2016, because of a failure to report as directed. The parties were properly notified about the hearing. A telephone hearing was held on November 14, 2016. Claimant participated. Official notice was taken of the administrative record of claimant's weekly continued claims filings, without objection. Official notice was taken of the administrative record of the October 11, 2016 and October 16, 2016 letters mailed to claimant requesting additional information, without objection.

ISSUES:

Is the claimant able to and available for work?

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: Two letters from Iowa Workforce Development (IWD) were mailed to claimant's address of record; one letter was dated October 11, 2016 and the other was dated October 12, 2016. Claimant testified she does not believe she received the letters. Claimant has had her mail delivered to her father's PO Box since approximately 2006. It normally it takes approximately three to four days for mail to get from Des Moines, Iowa to claimant's address of record. Claimant is not aware of any issues with the mail during this time period. Claimant's father or her mother picks up the mail from the PO Box and they then bring the mail to her house. Claimant is not sure why she did not receive the letters from IWD, but they may have been misplaced by her parents; sometimes her parents leave the mail in the car and forget about it. Claimant is not sure if her parents are aware she needs letters from IWD because she did not explain anything to them. Both IWD letters requested additional information from claimant and she was to respond to IWD with the additional information by October 20, 2016 and October 21, 2016. Claimant did not respond to either letter from IWD.

Claimant filed a continued claim for benefits for the week ending October 1, 2016. When claimant filed her weekly continued claim, she indicated that she had been discharged for misconduct. Claimant worked for Universal Security during the week ending October 1, 2016. Claimant was discharged by Universal Security due to absenteeism.

Claimant filed a continued claim for benefits for week ending October 8, 2016. When claimant filed her weekly continued claim, she indicated that she had been discharged for misconduct. Claimant worked for Universal Security during the week ending October 8, 2016. Claimant was discharged by Universal Security due to absenteeism during the week ending October 8, 2016. Claimant worked approximately ten days for Universal Security.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying issue was not the result of a reporting error, and claimant has not established a good cause reason for having failed to report as directed.

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:

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.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

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.

IWD mailed claimant two notices to provide additional information after she indicated she had been discharged for misconduct when she filed her weekly continued claims for benefits for the weeks ending October 1 and 8, 2016. Claimant had to respond to the notices by October 20 and 21, 2016, respectively. The record shows that claimant did have a reasonable opportunity respond to the notices. Claimant testified it normally takes three to four days for mail to get from Des Moines, Iowa to her address of record and she is not aware of any issues with the mail. IWD mailed the notices to claimant's address of record and although she indicated she did not receive the notices from her parents, there was no evidence presented that the notices were not received at the address of record. Claimant testified that her parents pick up the mail from the address of record and sometimes they do not give claimant her mail. The administrative law judge concludes that failure to follow the clear written instructions to respond to the notices within the time prescribed was not due to any Agency error or misinformation or delay or other action of the United States Postal Service. Benefits are denied.

DECISION:

The October 25, 2016, (reference 02) unemployment insurance decision is affirmed. Claimant has not established a good cause reason for failing to report as directed. Benefits are denied effective October 23, 2016.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs