

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

STEVEN J NEIHAUS
Claimant

APPEAL NO. 14A-UI-04264-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/08/13
Claimant: Appellant (2)

Iowa Code § 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 the April 21, 2014, (reference 02) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on May 13, 2014. The claimant did participate. Claimant's Exhibit A was entered and received into the record.

ISSUE:

Did the claimant fail to report as directed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant attempted to participate in his fact-finding interviews but when he called to participate he was told they were not taking place. The claimant did not fail to participate he was not given the opportunity to do so.

When making his claim for benefits for the weeks ending February 8, March 22 and March 29, the claimant inadvertently pushed the wrong button and indicated he was not able to and available for work during those weeks. During all of the weeks the claimant has claimed unemployment insurance benefits he was able to and available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

The claimant has established to the administrative law judge that he was able to and available for work during all of the weeks he claimed benefits. He inadvertently entered the wrong response when making his claim via telephone. He attempted to participate in his fact-finding interview but was not given the opportunity to do so. Accordingly, benefits are allowed.

DECISION:

The April 21, 2014, (reference 02), decision is reversed. The claimant is able to work and available for work effective February 2, 2014. Benefits are allowed.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css