

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARTY R SCHOOLEY
Claimant

APPEAL 17A-UI-09011-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 07/09/17
Claimant: Appellant (2R)**

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:

Marty R. Schooley (claimant) filed a timely appeal from the August 24, 2017, reference 07, unemployment insurance decision that denied benefits effective August 6, 2017 because he failed to report as directed. After due notice was issued, a telephone conference hearing was held on September 22, 2017. The claimant participated. Claimant's Exhibit A was received.

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: On August 15, 2017, a notice was mailed to the claimant to be available for a call from Iowa Workforce Development (IWD) on August 23, 2017 about a separation he reported during his continued claim for benefits the week ending August 12, 2017. The claimant contacted IWD customer service the morning of his fact-finding interview to report he was working and would not be available. He was told a decision with appeal rights would be issued.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has established a good cause reason for having failed to report as directed, but the underlying issue of the separation has not yet been addressed.

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.

The claimant was at work the date of the fact-finding interview and notified the agency he would not be available at the time assigned for the hearing. He was not given another option to participate such as via email or writing. The claimant has presented a good cause reason for failing to report as directed. The issue of whether the claimant's separation during the week ending August 12, 2017 is disqualifying is remanded to the Benefits Bureau for an initial investigation and determination.

DECISION:

The August 24, 2017, reference 07, unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. Benefits are allowed effective August 6, 2017, provided he is otherwise eligible.

REMAND:

The issue of whether the claimant's separation reported the week ending August 12, 2017 is disqualifying is remanded to the Benefits Bureau for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn