

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SACK LOVAN**  
Claimant

**APPEAL 17A-UI-01863-JP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 12/25/16  
Claimant: Appellant (2)**

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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  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 6, 2017, (reference 01) unemployment insurance decision that denied benefits as of January 29, 2017. After due notice was issued, a hearing was held by telephone conference call on March 10, 2017. Claimant participated. CTS Language Link interpreter ID number 9606 interpreted on claimant's behalf. Official notice was taken of the administrative record of claimant's weekly continued claims filing history. Department Exhibit D-1 was admitted into the record.

**ISSUE:**

Is the appeal timely?

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: An ineligibility unemployment insurance decision was mailed to the claimant's last-known address of record on February 6, 2017. Claimant received the decision on February 9, 2017, within the appeal period. Department Exhibit D-1. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by February 16, 2017. Claimant went to the local Iowa Workforce Development (IWD) office in Iowa City and he filed an appeal on February 10, 2017; however, he faxed it to the wrong number. Department Exhibit D-1. Claimant then called IWD to follow-up and was told he had filed incorrectly (faxed to the wrong number) and he had to re-file his appeal. Claimant re-filed his appeal on February 17, 2017, which is after the date noticed on the unemployment insurance decision.

For the week ending January 14, 2017, claimant filed his weekly continued claim and mistakenly indicated that he refused work. On January 19, 2017, a notice was mailed to claimant to respond regarding his continued claim filing for the week ending January 14, 2017 because he indicated he refused work. Department Exhibit D-1. After claimant received the letter, he

contacted IWD in Des Moines. Claimant explained that it was a mistake when he indicated that he refused work and he was told everything was okay.

Claimant has not refused an offer of work. Claimant incorrectly marked that he refused work because he did not understand the question. Since claimant has filed a claim for benefits with an effective date of December 25, 2016, he has been able and available for work. Claimant has been performing at least two job contacts every week since February 13, 2017.

#### **REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The appellant filed an appeal in a timely manner but it was not received. Claimant was told that it was sent to the wrong fax number. Immediately upon receipt of information to that effect, a second appeal was filed. Therefore, the appeal shall be accepted as timely.

The next issue is whether claimant failed to report as directed or offered a good cause reason for failure to do so. For the reasons that follow, the administrative law judge concludes the underlying issue was the result of a reporting error, and claimant has 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.

For the week ending January 14, 2017, claimant mistakenly indicated that he refused work. Claimant presented credible testimony that he did contact IWD in Des Moines after he received the notice to report and explained the situation. Claimant was told everything was fine and he has established a good cause reason for failing to report as directed, benefits are allowed.

**DECISION:**

The February 6, 2017, (reference 01) unemployment insurance decision is reversed. The appeal is timely. Claimant has established a good cause reason for failing to report as directed.

The underlying issue was the result of a reporting error. Benefits are allowed effective January 29, 2017, provided claimant is otherwise eligible.

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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

jp/rvs