

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHAUN M THOMAS
Claimant

APPEAL 18R-UI-04071-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 10/15/17
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

Claimant/appellant filed an appeal from the January 18, 2018, (reference 07) unemployment insurance decision that determined ineligibility for unemployment insurance benefits because of not being able to or available for work. Notice of hearing was mailed to the appellant's last known address of record for a telephone hearing scheduled for April 25, 2018. Claimant participated.

ISSUE:

Is the claimant able to work and available for work the two weeks-ending January 6, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was ill and saw a “doctor” on December 27, 2017, when she was also scheduled for reemployment services (RES) training. She rescheduled RES again on January 3, 2018, and felt ill again so canceled again and returned to the “doctor.” She reported two online work searches each week. With her appeal letter to the Employment Appeal Board, she presented two “Doctor’s Note” excusing claimant from “Employment Services Training” for those dates from “Dr. David Faldmo.” The excuses are written on plain paper without letterhead or watermark in the same font and type size as her appeal letter. David Faldmo is a physician’s assistant, not a physician. The excuse for December 27, 2017, is listed as “12/27/18.”

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has not established a good cause reason for having failed to report as directed.

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".

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.

...
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.

Medical professionals generally put their professional designation, e.g. M.D., D.O., R.N., or P.A., at the end of the signature or typewritten name, rather than as a title at the front of the name. Further, since the "Doctor's Note", not "Doctor's Excuse" was not written on letterhead stationary or note pad, and the font and type size are the same as claimant's appeal letter, the administrative law judge concludes the excuses are forgeries, even if the illness was real. If the illness was genuine and lasted that long, even though she may have been able to make online work searches each week, she would not be considered able to work or available for work. The coincidence of missing RES two weeks in a row for the same stated reason, yet claiming to be available the other days of both weeks, also diminishes claimant's credibility. Thus, claimant was not able to and available for work the two weeks-ending January 6, 2018.

DECISION:

The January 18, 2018, (reference 07) unemployment insurance decision is affirmed. The claimant has not established a good cause reason for failing to report as directed. Benefits are denied from December 24, 2017, through January 6, 2018.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs