

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ZLATKO KLARIC
4542 – 50TH
DES MOINES IA 50310

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 06A-UI-04432-DT
OC: 01/01/06 R: 02
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.2-1-e - Failure to Report
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

Zlatko Klaric (claimant) appealed a representative's March 10, 2006 decision (reference 05) that concluded he was not qualified to receive unemployment insurance benefits because he had not responded to an Agency notice for a telephone interview relating to his eligibility. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on May 11, 2006. The claimant participated in the hearing. Zijo Sucasca served as interpreter. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

The representative's decision was mailed to the claimant's last-known address of record on March 10, 2006. The claimant asserted he never received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by March 20, 2006. The appeal was not filed until April 24, 2006, which is after the date noticed on the disqualification decision.

The claimant established an initial claim for unemployment insurance benefits effective January 1, 2006. There were several weeks in which on his weekly continued claims the answer "no" was entered to the question whether the claimant's job contacts had been in-person. On February 28, 2006, the Agency sent the claimant a notice to participate in a telephone interview regarding his work search to be held between 1:00 p.m. and 2:00 p.m. on March 8, 2006. The claimant testified that he was present at his home at that time waiting for the call, but no call came.

The claimant testified that he was not the person who had physically made the weekly telephone claims since he did not sufficiently speak English, but that he had had his 16-year old son make the calls and entries for him. He asserted that all of his job contacts had been in-person, and that if the weekly claims indicated otherwise, it was an error on his son's count.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant failed to report as required to be eligible for unemployment insurance benefits.

871 IAC 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 financial institution's account 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.

The claimant's first-hand testimony is that he was available to participate in the telephone interview as scheduled, but no call came. The underlying issue regarding the claimant's work search and availability is resolved by virtue of the claimant's testimony that he did make at least two in-person job contacts weekly.

DECISION:

The representative's March 10, 2005 decision (reference 05) is reversed. The appeal is deemed timely. He attempted to participate in the telephone interview on his availability and has now resolved the issue. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

ld/kkf