

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WADE A BUSS

Claimant

APPEAL 23A-UI-07729-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/29/23

Claimant: Appellant (1-R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(11) – Able & Available – Failure to Report
Iowa Admin. Code r. 871-24.2(1)(e) – Able & Available – Report as Directed by Department
Iowa Admin. Code r. 871-24.3(2) – Able & Available – Identity Verification

STATEMENT OF THE CASE:

On August 8, 2023, claimant Wade A. Buss filed an appeal from the August 1, 2023 (reference 02) unemployment insurance decision that allowed benefits effective July 30, 2023, based upon a determination that claimant initially failed to provide verification of identity but subsequently did so. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Wednesday, August 30, 2023. Claimant Wade A. Buss participated personally. Exhibits D1, D2, D3, and D4 were received and admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUES:

Whether claimant was able to and available for work.
Whether claimant failed to report as directed by a department representative.
Whether claimant timely provided verification of identity.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant initially opened a claim for unemployment insurance benefits effective January 29, 2023, due to a reduction in hours. He worked reduced hours for only one week at that time before returning to full-time work. Claimant remains employed with that same employer.

Claimant was unable to verify his identity through the online verification process. Therefore, on his claim confirmation page, a notice appeared stating claimant was required to provide qualifying proof of his identity to the agency in order to prevent his benefits from being delayed and his claim from being canceled. The claimant had until February 15, 2023 to provide the documentation. Claimant received the initial message about failing to verify his identity when he opened his claim. On February 9, 2023, IWD mailed claimant a letter also stating that if he was unable to provide proof of his identity by February 15, 2023, “benefits may be delayed or

denied.” (Exhibit D1) Claimant received the letter. Claimant did not take immediate action when receiving the letter, because he was back to working full-time hours and was no longer filing claims. He did not follow the instructions at the time he saw them because it was only for two or three days of unemployment, so he just “left it go.”

On July 24, 2023, claimant was placed on temporary layoff for one week. When he reopened his claim for benefits, he remembered the initial messages he had received after opening his claim for benefits about verifying his identity. Claimant took his documents to the Waterloo office, and the local office staff uploaded them into LotusNotes on July 31 so staff in Des Moines could review them and unlock claimant’s claim. Claimant’s unemployment insurance claim was unlocked on August 1. That same day (August 1), IWD issued a decision finding claimant eligible for benefits effective July 30, 2023, as he provided the requested identity verification documents.

Claimant worked during the benefit weeks ending August 5 and August 12. He filed weekly continued claims for benefits, but he also reported wages in excess of his weekly benefit amount plus fifteen dollars. Therefore, he did not receive payment for either of these weeks. Claimant was then laid off for the weeks ending August 19 and August 26, and he received full benefits for those weeks.

Effective August 27, claimant has been out of work due to a non-work-related injury. He suffered second-degree burns on his left leg, which have rendered him unable to perform any work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant failed to provide timely verification of identity.

Each week a claimant files a claim for benefits he must be able to and available for work. Iowa Code § 96.4(3). To maintain continued eligibility, a claimant shall report as directed by an authorized representative. 871 IAC 24.2(1)e. A claimant who fails to report as directed by notice mailed to the claimant is deemed unavailable for work. 871 IAC 24.23(11).

Iowa Admin. Code r. 871-24.3 provides:

A claim will not become valid until the identity of the claimant has been verified by the department.

(1) Upon the filing of a claim, notification shall be provided to the claimant if the claimant’s identity was not verified.

(2) If the agency is unable to verify the claimant’s identity in the claim application, the claimant must provide approved documents. Approved documents must include at least one document containing a social security number. The department shall determine the approved documents required to verify identity. The list of approved documents can be found at the nearest local workforce center or online.

(3) The claimant’s identity will not be considered verified until approved documents have been provided. The claim shall remain locked from issuance of

benefits until the claimant has provided the approved documents to verify identity.

(4) After filing a claim application, the claimant shall not be eligible for benefits for any week until approved documents are provided to verify identity.

(5) Approved documents must be provided or postmarked by Saturday at 11:59 p.m. of the week in which the approved documentation is due, and the claim shall be unlocked for all weeks following the most recent effective date of the claim application.

(6) If required documents are provided in any subsequent weeks following the due date, the claimant shall be eligible, provided there are no other outstanding issues with the claim, as of the Sunday of the week the claimant's identity was verified.

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.

In this case, claimant received notification to provide verification of identity by February 15, 2023, in order to prevent benefits from being delayed and/or the claim being canceled. Claimant did not provide the requested documentation until July 31, 2023. The administrative law judge is sympathetic to claimant's position, but claimant's failure to provide the required documentation in a timely manner was not due to IWD error. The administrative law judge finds claimant was not available for work until July 30, 2023, when claimant provided the required identity verification documents to IWD.

Therefore, benefits are withheld until July 30, 2023. Benefits are allowed effective July 30, 2023, provided claimant is otherwise eligible.

This matter will be remanded so the Benefits Bureau may determine whether claimant is available for work, in light of his non-work-related injury (second-degree burns) and his testimony that he is not presently able to work.

DECISION:

The August 1, 2023 (reference 02) unemployment insurance decision is affirmed. Claimant was not available for work for the period of January 29, 2023 through July 29, 2023, because claimant failed to provide verification of identity as required. Benefits are allowed effective July 30, 2023, provided claimant is otherwise eligible.

REMAND: The issue of whether claimant is available for work effective August 27, 2023 is remanded to the Benefits Bureau for review and determination.



Elizabeth A. Johnson
Administrative Law Judge

August 31, 2023
Decision Dated and Mailed

LJ/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.