

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EMILY J FRITZLER
Claimant

APPEAL 19A-UI-09838-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 10/27/19
Claimant: Appellant (4)

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:

On December 12, 2019, Emily J. Fritzler (claimant) filed an appeal from the December 6, 2019, reference 03 unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was held on January 9, 2020. The claimant participated. The administrative law judge took official notice of the fact-finding documents.

ISSUES:

Is the claimant able to and available for work?
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: The claimant filed the original claim for benefits effective October 27, 2019. She was selected for reemployment services, but notified the agency she would be out of town on the day the services were scheduled. On November 25, a notice was mailed to the claimant to be available for a call from IWD on December 5 about her availability for work based on her statement she would be out of town.

The claimant left town on November 25 and did not return until December 6. She was traveling for the Thanksgiving holiday but stayed longer for a job interview on December 3. She is going through changes in her personal life, but currently resides in Des Moines and is not committed to moving to Texas. The claimant did not have phone service at the date and time of the fact-finding interview as she was driving through Oklahoma. The claimant received the notice to report once she returned. She filed the appeal on the current case during the week ending December 14.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not able to and available for work during the two-week period from November 24 through December 7, 2019. Benefits are denied for those two weeks. The claimant is now able to and available for work. Benefits are allowed effective December 8, 2019, provided she is otherwise eligible.

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 provides, in relevant part:

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.

...

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

The claimant was out of town for the Thanksgiving holiday. While she did have a job interview in Texas, the primary reason for the travel was personal. The claimant is not committed to moving to Texas and her current labor market is Des Moines. The claimant did not receive the notice to report because she was not available for work. Benefits are denied from November 24 through December 7, 2019. The claimant returned to the labor market and reported to the agency the following week. Benefits are allowed effective December 8, 2019, provided she is otherwise eligible.

DECISION:

The December 6, 2019, reference 03, unemployment insurance decision is modified in favor of the appellant. The claimant was not available for work from November 24 through December 7, 2019 and benefits are denied for those two weeks. The claimant has established she is available for work effective December 8, 2019 and benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Stephanie R. Callahan
Administrative Law Judge

January 10, 2020
Decision Dated and Mailed

src/rvs