

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**RICK L CRAMPTON**  
Claimant

**IOWAWORKS  
REEMPLOYMENT SERVICES**

**APPEAL NO. 20A-UI-00222-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/20/19  
Claimant: Appellant (4)**

Iowa Code Section 96.4(7) – Failure to Report as Directed for Reemployment Services  
Iowa Code Section 95.4(8) – Able & Available  
Iowa Code Section 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Rick Crampton filed a late appeal from the December 17, 2019, reference 03, decision that denied benefits effective December 8, 2019, based on Mr. Crampton's failure to report as directed for a reemployment and eligibility assessment on December 11, 2019. After due notice was issued, a hearing commenced on January 28, 2020 and concluded on January 31, 2020. Mr. Crampton participated and was represented by attorney Joe Basque. Maria Cortez appeared on behalf of IowaWORKS Reemployment Services. Exhibits A, B and C, 1 through 5, and Department Exhibits D-1 and D-2 were received into evidence.

**ISSUE:**

Whether there is good cause to treat Mr. Crampton's appeal from the December 17, 2019, reference 03, decision as a timely appeal.

Whether Mr. Crampton failed to report as directed for reemployment services on December 11, 2019 and therefore did not meet the availability requirement effective December 8, 2019.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Rick Crampton established an original claim for benefits that was effective December 17, 2019 and filed weekly claims for the eight weeks between October 20, 2019 through December 14, 2019. When Mr. Crampton established his claim for benefits, he reported that he was permanently separated from this most recent employment. Iowa Workforce Development determined that Mr. Crampton was likely to exhaust unemployment insurance benefits. On November 25, 2019, Iowa Workforce Development mailed a notice to Mr. Crampton that directed Mr. Crampton to report to the Carroll IowaWORKS Center on December 5, 2019 for a reemployment services and eligibility assessment.

On December 5, 2019, Mr. Crampton met with Maria Cortez, Iowa Workforce Development Reemployment Services and Eligibility Assessment (RESEA) Career Planner. At the time of the

meeting, Mr. Crampton entered into a written agreement whereby he agreed to participate in an Essential Tools for Job Seekers class at the Carroll IowaWORKS on December 9, 2019 from 9:00 a.m. to 11:00 a.m. and to participate in a Conduct a Job Search class at the Carroll IowaWORKS on December 11, 2019 from 1:00 p.m. to 4:00 p.m. Mr. Crampton had requested to participate in the Conduct a Job Search class. The agreement Mr. Crampton signed with Ms. Cortez on December 5, 2019 included the following provision:

**I understand that, if I do not complete scheduled RESEA activities within the agreed upon timeframe, it will result in the denial of unemployment insurance benefits. I understand that I am allowed only one reschedule during the process (including the initial appointment). Requesting more than one reschedule could result in suspension of my unemployment benefits until all requirements are met.**

If there are circumstances that prevent you from attending and completing the above listed activities, please contact the advisor listed below at the number provided to discuss your options. **You must do so prior to the due dates of your scheduled activities.**

Mr. Crampton left the December 5, 2019 meeting with a copy of the agreement he had signed, with a clear understanding of his obligation to complete the reemployment services classes by the designated dates, and the consequence if he failed to comply.

On December 9, 2019, Mr. Crampton participated in the Essential Tools for Job Seekers class as required by the December 5, 2019 written agreement.

On December 11, 2019, Mr. Crampton did not participate in the Conduct a Job Search class as required by the December 5, 2019 written agreement. Mr. Crampton had given no notice that he could not attend the class as scheduled. Mr. Crampton asserts his failure to participate in the Conduct a Job Search class on December 11 was attributable to an “oversight” on his part.

When Mr. Crampton failed to complete the Conduct a Job Search class on December 11, 2019 as directed and as scheduled, Ms. Cortez locked Mr. Crampton’s claim for benefits effective December 8, 2019 and set in motion the reference 03 decision that denied benefits effective December 8, 2019.

On Sunday, December 15, 2019, Mr. Crampton filed a weekly claim for the benefit week that ended December 14, 2019. At that time, Mr. Crampton discovered that his unemployment insurance claim had been locked. Within a few days, Mr. Crampton spoke to an IowaWORKS representative at the Carroll IowaWORKS, who advised Mr. Crampton that the claim was locked based on Mr. Crampton’s failure to appear for the Conduct a Job Search class on December 11, 2019 and that the next Conduct a Job Search class was set for December 23, 2019.

On December 17, 2019, Iowa Workforce Development mailed the December 17, 2019, reference 03, decision to Mr. Crampton at his last-known address of record. The decision denied benefits effective December 8, 2019, based on Mr. Crampton’s failure to report as directed for a reemployment and eligibility assessment on December 11, 2019. The decision stated that an appeal from the decision must be postmarked by December 27, 2019 or be received by the Appeals Bureau by that date. Mr. Crampton received other decisions, but did not receive the reference 03 decision until January 27, 2020, when he received a copy Ms. Cortez had mailed to him for use at the appeal hearing set for January 28, 2020.

On December 19, 2019, Mr. Crampton called Iowa Workforce Development and requested to participate in the December 23, 2019 Conduct a Job Search class. On December 20, 2019, Mr. Crampton sent an email message to Ms. Cortez and requested to participate in the December 23, 2019 Conduct a Job Search class.

Mr. Crampton participated in the Conduct a Job Search class on December 23, 2019. On December 24, 2019, Iowa Workforce Development mailed a December 24, 2019, reference 04, decision to Mr. Crampton. The decision allowed benefits effective December 22, 2019, based on Mr. Crampton's fulfillment of the Conduct a Job Search class on December 23, 2019. In other words, the reference 04 decision limited the disqualification set forth in the reference 03 decision to the two-week period of December 8-21, 2019.

On December 26, 2019, Mr. Crampton spoke to an IowaWORKS representative in an attempt to file a timely weekly claim for the week that ended December 21, 2019, but the weekly claim was recorded in the Workforce Development computer system as a second claim for the week that ended December 14, 2019.

On January 7, 2020, Mr. Crampton filed a late online appeal from a December 24, 2019, reference 01, decision that denied benefits for the week of November 17-23, 2019, based on an Agency conclusion that Mr. Crampton had reported that he was not ready, willing or able to work during the week in question. The Appeals Bureau treated Mr. Crampton's late appeal from the reference 01 decision as also a late appeal from the December 17, 2019, reference 03, decision and other recently entered adverse decisions.

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

Iowa Code section 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, subsections 10 and 11, 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 ten-day deadline for appeal begins to run on the date Workforce Development mails the decision to the parties. The "decision date" found in the upper right-hand portion of the Agency representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

An appeal submitted by mail is deemed filed on the date it is mailed as shown by the postmark or in the absence of a postmark the postage meter mark of the envelope in which it was received, or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion. See Iowa Administrative Code rule 871-24.35(1)(a). See also *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983). An appeal submitted by any other means is deemed filed on the date it is received by the Unemployment Insurance Division of Iowa Workforce Development. See Iowa Administrative Code rule 871-24.35(1)(b).

The evidence in the record establishes that more than ten calendar days elapsed between the mailing date and the date this appeal was filed. The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott*, 319 N.W.2d 244, 247 (Iowa 1982). The question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

There is good cause to treat Mr. Crampton's appeal from the December 17, 2019, reference 03, decision as a timely appeal. Mr. Crampton did not receive the decision until January 27, 2020. Mr. Crampton had filed his January 7, 2020 appeal with the knowledge that multiple adverse decisions had been entered, but without a copy of the reference 03 decision in hand. Because Mr. Crampton did not receive the reference 03 decision by the December 27, 2019 appeal deadline and did not receive the decision until January 27, 2020, the administrative law judge concludes the delayed filing of the appeal was attributable to Iowa Workforce Development and/or the United States Postal Services. The administrative law judge had jurisdiction to rule on the merits of the appeal.

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 Code § 96.4(7) provides:

Required findings.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

(7) The individual participates in reemployment services as directed by the department pursuant to a profiling system, established by the department, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

Iowa Admin. Code r. 871-24.6 provides:

Reemployment services and eligibility assessment procedure.

(1) The department of workforce development will provide a program which consists of profiling claimants and providing reemployment services.

(2) Purpose.

a. Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

b. The eligibility assessment program is used to accelerate the individual's return to work and systematically review the individual's efforts towards the same goal.

(3) Reemployment services and eligibility assessment may include, but are not limited to, the following:

- a. An assessment of the claimant's aptitude, work history, and interest.
- b. Employment counseling regarding reemployment approaches and plans.
- c. Job search assistance and job placement services.
- d. Labor market information.
- e. Job search workshops or job clubs and referrals to employers.
- f. Résumé preparation.
- g. Other similar services.

(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or

the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services or eligibility assessment. The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause.

a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service.

(7) Eligibility assessment procedure.

a. Before an individual has claimed five weeks of intrastate benefits, the workforce development center shall receive a computer-selected list of individuals claiming benefits within the target population for review.

b. No eligibility assessment will be performed on an individual unless monetary eligibility and nonmonetary eligibility are established.

c. Once selected for an initial or subsequent eligibility assessment, claimants are required to participate in all components of the assessment as determined by the department.

d. A Notice to Report shall be sent by the workforce development center to an individual who is in an active status at the time of its printing. If the individual does not respond, the department must issue an appropriate failure to report decision and lock the claim to prevent payment.

e. Selected claimants must report in person to the designated workforce development center to receive staff-assisted services for the initial assessment.

f. Before an administrative law judge can rule on a disqualification for failure to report at an Iowa workforce development center as directed, there must be evidence to show that the individual was required to report for an interview.

(8) Conducting the first eligibility assessment interview.

a. All available evidence must be examined to detect potentially disqualifying issues.

b. The individual's need for advice, assistance or instructions must be determined and conveyed to the individual.

c. The interview must convey to the individual the requirements that must be satisfied to maintain eligibility.

d. This advice, assistance or instruction constitutes an understanding and agreement between the individual and the unemployment insurance representative at the conclusion of the interview regarding the individual's willingness and ability to eliminate any barriers to obtaining reemployment which otherwise would result in referral for adjudication.

e. The individual shall be advised of what constitutes an acceptable effort to obtain reemployment in accordance with state policy, with consideration for local labor market information and the individual's occupation.

f. The final objective of the interview is to determine whether a subsequent interview is needed. This determination shall be based on expected return to work date, job openings in the area, local labor market conditions, and other.

This rule is intended to implement Iowa Code section 96.4(7).

Iowa Admin. Code r. 871-24.2(1)(e) provides:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(2) 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.

If the department identifies a claimant who is likely to exhaust benefits, in order to be eligible for weekly benefits a claimant must report as directed to participate in reemployment services. Iowa Code § 96.4(7). Unemployment insurance rules require a claimant to participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Iowa Admin. Code r. 871-24.6(6). Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services. *Id.* Justifiable cause for failure to participate includes an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service. *Id.* The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause. *Id.* Failure to report for the appointment, failure to contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause for missing the appointment, or failure to have justifiable cause for failing to report for the appointment means the claimant has failed to meet the availability requirements of the law. *Id.*

Mr. Crampton received appropriate notice that he was obligated to complete the Conduct a Job Search class on December 11, 2019 as scheduled and as agreed to at the time of the

December 5, 2019 meeting. Mr. Crampton's counsel's assertion that the December 5, 2019 agreement document was unclear is without merit. Counsel's assertion that Mr. Crampton left the December 5, 2019 meeting with the belief that participation in further reemployment services was optional is without merit. Mr. Crampton failed to report as directed for the December 11, 2019 Conduct a Job Search class. Mr. Crampton did not notify IowaWORKS in advance of a reason he could not report as directed. Mr. Crampton had no justifiable cause for his failure to report as directed for a reemployment services class on December 11, 2019. Based on the failure to report as directed, Mr. Crampton was ineligible for benefits beginning the week in which he failed to report as directed and continuing until he had completed the reemployment services requirements. The disqualifying conduct was entirely attributable to Mr. Crampton. The Agency was under no obligation to create a special class time to accommodate Mr. Crampton's failure to appear as directed and took appropriate steps to enroll Mr. Crampton in the next scheduled Conduct a Job Search class. The Agency representative correctly denied benefits for the period of December 8-21, 2019.

**DECISION:**

The December 17, 2019, reference 03, decision is modified as follows. There is good cause to treat the claimant's late appeal as a timely appeal. The claimant failed to report as directed for reemployment services on December 11, 2019 without justifiable cause for the failure to report. Benefits area denied effective December 8, 2019. In light of the claimant's completion of the re-employment services requirement on December 23, 2019, benefits are allowed effective December 22, 2019, provided the claimant is otherwise eligible.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/scn