

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

CHERI KENWORTHY
Claimant

APPEAL NO: 14A-UI-05463-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/08/13
Claimant: Appellant (2)

Section 96.4-3 – Able and Available
871 IAC 24.2(1)e, 24.11 – Failed to Report as Directed

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 23, 2014, reference 01, decision that denied benefits effective the week ending May 18, 2014. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 16, 2014. The claimant participated in the hearing.

ISSUE:

The issue is whether the claimant is able and available for work and whether she failed to report to the Department as directed.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed an unemployment insurance benefits claim with an effective date of December 8, 2013. During the week ending May 18, 2014, the claimant inadvertently pushed the wrong button when calling in her claim and consequently it showed the claimant had refused a suitable offer or referral of work when she had not done so. As a result of her mistake, the Department issued a letter directing the claimant to be available for a telephone interview May 22, 2014, between 10:00 a.m. and 11:00 a.m. The claimant was looking for work in Florida and did not receive the letter until she returned home later in the day on May 22, 2014. She had missed the phone interview and attempted to call the number listed on the letter but did not receive a response. Although the interviewer called the claimant at the time specified, it was from an 800 number and the claimant was not expecting a call because she had not received the letter yet so she declined to answer and shut her phone off as she was on her way to the airport.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work and did not refuse a suitable offer or referral to work.

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".

The claimant inadvertently pushed the wrong button when calling in her claim for the week ending May 18, 2014, when answering the question of whether she had refused a suitable offer of work or work referral. She was subsequently directed to be available for a telephone interview to be held May 22, 2014, between 10:00 a.m. and 11:00 a.m. but was looking for work out of state and did not receive the letter until after the time of the interview May 22, 2014. The claimant has presented a good cause reason for failing to appear on May 22, 2014, since she could not reasonably be available for a hearing she did not receive notice for prior to occurrence. Benefits are allowed for the week ending May 24, 2014, and thereafter regarding this issue.

DECISION:

The May 23, 2014, reference 01, decision is reversed. The claimant is able to work and available for work and did not refuse a job offer or referral effective the week ending May 24, 2014. Benefits are allowed.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs