

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

**JAMES R LLAMAS**  
Claimant

**APPEAL NO. 24A-UI-02156-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 11/19/23  
Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available  
Iowa Admin. Code rule 87124.2(1)(e) – Failure to Report as Directed

**STATEMENT OF THE CASE:**

On February 22, 2024, James Llamas (claimant) filed a timely appeal from the February 14, 2024 (reference 02) decision that denied benefits effective February 11, 2024, based on the deputy's conclusion that the claimant failed to report that week as directed by Iowa Workforce Development and, therefore, did not meet the availability requirement. After due notice was issued, a hearing was held on March 19, 2024. Claimant participated. Exhibit A was received into evidence. The administrative law judge took official notice of the following agency administrative records: KCCO, DBRO, KFFV, KLOG, NMRO, WAGE-A and the reference 01/02 supplemental documents.

**ISSUES:**

Whether the claimant was able to work and available for work for the period beginning February 11, 2024.

Whether the claimant failed to report to Iowa Workforce Development as directed and, therefore, did not meet the availability requirement effective February 11, 2024.

**FINDINGS OF FACT:**

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

James Llamas (claimant) established an original claim for benefits that was effective November 19, 2023. The claimant has made weekly claims for each consecutive week since filing the original claim.

The claimant has at all relevant times been employed by TruGreen, L.P. as a Pesticide Applicator. During the lawn application season that runs from March to late November or the beginning of December, the claimant works full-time, Monday through Friday, hours. During the off-season, the employer provides significantly reduced work hours, one day a week, in an effort to relieve employees such as the claimant of the Iowa Workforce Development work search requirement for periods of layoff lasting longer than four weeks.

When the claimant made his weekly claim for the week that ended January 20, 2024, he reported on the claimant that he had refused work during that week.

On January 31, 2024, Iowa Workforce Development mailed a notice to the claimant's last-known address of record. The notice directed the claimant to be available at his phone number of record on February 13, 2024 at 8:45 a.m. The claimant received the notice in a timely manner. The claimant was aware of the scheduled call but elected not to participate in the call. The claimant made no mention to the employer about his need to participate in the call. On February 13, 2024, the claimant reported to work for his one-day weekly workday. The claimant left his cell phone in his locker at work. At 8:49 a.m. on February 13, 2024, an IWD deputy called the claimant's phone number and left a voicemail message. The deputy requested a return call within 30 minutes and provided a number to call. The deputy stated that a decision would be mailed and that the claimant would have the right to appeal that decision.

On the afternoon of February 13, 2024, the claimant listened to the voicemail message the IWD deputy had left that morning. The claimant was outside the 30-minute return call window the deputy had referenced in the voicemail message.

On February 14, 2024, Iowa Workforce Development mailed the reference 02 decision that denied benefits effective February 11, 2024, based on the deputy's conclusion that the claimant failed to report that week as directed by Iowa Workforce Development and, therefore, did not meet the availability requirement.

On or about Monday, February 19, 2024, the claimant called the IWD customer service telephone number and spoke with an IWD representative who told him the claim was locked "for able and available."

On Thursday, February 22, 2024, the claimant went to the Des Moines IowaWORKS Center and spoke to an IWD representative who shared that the claim was locked due to the claimant's failure to participate in the fact-finding interview.

IWD has since deleted from its records the reference 01 work refusal concern regarding the weekly claim for the week ending January 20, 2024. See NMRO.

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

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. ...

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. Iowa Administrative Code rule 87124.2(1)(e). 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. Iowa Administrative Code rule 87124.23(11).

The claimant failed to report as directed for the February 13, 2024 fact-finding interview. The claimant did not have justifiable cause for the failure to report. Based on the failure to report as directed, the claimant did not meet the availability requirement effective February 11, 2023. The claimant subsequently took good faith steps to resolve the failure to report issue and resolved that issue as of February 22, 2024, when he reported to the IowaWORKS Center and met with an agency representative. Accordingly, the availability disqualification based on the failure to report is limited to the benefit week that ended February 17, 2024. The claimant is eligible for benefits for the period beginning February 18, 2024, provided the claimant is otherwise eligible.

**DECISION:**

The February 14, 2024 (reference 02) decision is MODIFIED IN FAVOR OF THE CLAIMANT/APPELLANT as follows. The claimant failed to report as directed for the February 13, 2024 fact-finding interview. Based on the failure to appear as directed, the claimant did not meet the availability requirement effective February 11, 2023. The availability disqualification based on the failure to report is limited to the benefit week that ended February 17, 2024. The claimant is eligible for benefits for the period beginning February 18, 2024, provided the claimant is otherwise eligible.



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James E. Timberland  
Administrative Law Judge

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March 22, 2024  
Decision Dated and Mailed

JET/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  
6200 Park Ave  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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>.

**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  
6200 Park Ave  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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 está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**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.