

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIAN MONTGOMERY
Claimant

APPEAL NO. 08A-UI-05386-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 02/17/08 R: 02
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available
871 IAC 24.2(1)e – Failure to Report

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 30, 2008, reference 06, decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was held on June 24, 2008. Claimant participated.

ISSUE:

The issue is whether failed to report to Iowa Workforce Development (IWD) as directed.

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: On May 19, 2008, a notice was mailed to the claimant to be available for a call from IWD on May 28, 2008 about his availability for work the week ending April 12, 2008. The claimant filed a weekly voice response claim and mistakenly pushed the button indicating he was not available for work. Since then, he had provided a new telephone number to IWD, was working in partial employment, and was reporting his gross weekly wages.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has established a good-cause reason for having failed to report as directed.

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".

871 IAC 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 and the payment of benefits, provided the individual is otherwise eligible, shall be on a biweekly basis by mail if the claimant files a Form 60-0151.

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 financial institution's account 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.

871 IAC 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.

Since claimant has established a good-cause reason for failing to report as directed, benefits are allowed.

DECISION:

The May 30, 2008, reference 06, decision is reversed. The claimant has established a good-cause reason for failing to report as directed. Benefits are allowed effective April 6, 2008, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw