

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**ROBERT M CAIN**  
Claimant

**APPEAL 22A-UI-18262-SC-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 06/19/22**  
**Claimant: Appellant (2-R)**

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 October 24, 2022, Robert M. Cain (claimant) filed an appeal from the October 12, 2022, reference 04 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 November 9, 2022. The claimant participated. No exhibits were admitted into the record.

**ISSUE:**

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: On September 30, 2022, a notice was mailed to the claimant to be available for a call from IWD on October 7 about a reported work refusal during the week ending September 24. The claimant received the notice, but on the day of the interview, his phone was blocking calls and inadvertently blocked the call from the fact-finder. The claimant contacted the agency the following day upon discovering the issue, but he was not able to speak with the fact-finder because he was given an incorrect phone number.

The issue of whether the claimant refused a suitable offer of work during the week ending September 24, 2022, has not been adjudicated by the Benefits Bureau.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has established he attempted to report during the week ending October 9, 2022, and he was able to and available for work that week. Benefits are allowed effective October 2, 2022, provided the claimant 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, in relevant part:

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.

....

(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.

An individual claiming benefits has the burden to prove that he is able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. A denial for failing to be able to and available for work is made on a week-by-week basis. In this case, the claimant failed to report on October 7, but the unrefuted testimony is that he attempted to correct the error the following day, or during the same week. He was given an incorrect phone number for the fact-finder and never made contact with her. The claimant was able to and

available for work effective October 2, 2022. Benefits are allowed, provided the claimant is otherwise eligible.

Whether the claimant refused a suitable offer of work in September is remanded to the Benefits Bureau for a fact-finding interview and decision.

**DECISION:**

The October 12, 2022, reference 04, unemployment insurance decision is reversed. The claimant attempted to report as directed during the same week of the fact-finding interview he missed. Benefits are allowed effective October 2, 2022, provided he is otherwise eligible.

**REMAND:**

Whether the claimant refused a suitable offer of work in September is remanded to the Benefits Bureau for a fact-finding interview and decision.

Note: If the claimant does not make himself available for the remanded fact-finding interview, the agency may have to make its decision based on the information reported when the claimant filed his weekly claim without the benefit of explanation as to why the job was refused.



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Stephanie R. Callahan  
Administrative Law Judge

December 5, 2022  
Decision Dated and Mailed

src/scn

**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  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**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  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: [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 se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**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.