

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PENGFEI SUN
Claimant

APPEAL 17A-UI-05001-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/26/17
Claimant: Appellant (2)**

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:

The claimant filed a timely appeal from the May 5, 2017, reference 03, decision that denied benefits because of a failure to report as directed. After due notice was issued, a hearing was held on May 30, 2017. The claimant participated.

ISSUE:

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A notice was mailed to the claimant to be available for a call from IWD on May 4, 2017 at 9:00 a.m. about his availability for work the week ending April 22, 2017. The claimant filed a weekly claim and mistakenly indicated he was not available for work. Claimant was waiting by his phone for the call at 9:00 a.m., but his phone did not ring. Around noon on May 4, claimant noticed he had a voicemail. The voicemail was the fact-finder calling for the interview. Claimant immediately called back, but was told that a decision had already been made.

Claimant testified he was having problems with his phone during this time and it would often times not ring or indicate that a call had been missed until several hours later. Claimant has since gotten a new phone and this is no longer an issue. Claimant testified he was available for work and made at least two work searches for the week in question.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying issue was the result of a reporting error, and 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".

Iowa Admin. Code r. 871-24.2(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 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 account at a financial institution 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.

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.

Claimant was waiting by his phone on May 4, 2017 at 9:00 a.m., but for reasons beyond his control the fact-finder's call did not go through to him. As soon as claimant realized he missed the call, he immediately attempted to call the fact-finder back. Claimant has established a good cause reason for failing to report as directed, benefits are allowed.

DECISION:

The May 5, 2017, (reference 03) unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. The underlying issue was the result of a reporting error. Benefits are allowed, provided he is otherwise eligible. Any benefits withheld on this basis shall be paid.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs