

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LUISITA V FERRER
Claimant

APPEAL 18A-UI-05073-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 04/01/18
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the April 25, 2018, (reference 01) decision that denied benefits effective April 22, 2018. After due notice was issued, a hearing was held by telephone conference call on May 17, 2018. Claimant participated.

ISSUE:

Was the claimant able to and available for work and did she fail to report as directed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: When the claimant filed her claim for benefits with an effective date of April 1, 2018, she reported that she was receiving a pension from a former employer, Campbell's. The agency sent the claimant a notice on April 13, 2018, that she would have a fact-finding interview on April 23, 2018 at 2:15 p.m. to discuss her receipt of pension. The claimant received the notification about the fact-finding interview, but did not answer the telephone when called to participate in the fact finding interview.

The claimant last worked for Campbell's in 2005 and now works for Con Agra Foods. Any pension she is currently receiving is not from a base period employer.

The claimant was off work for the week ending April 7, 2018, due to a short term layoff. She earned no wages during that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has not established a good cause reason for having failed to report as directed.

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. 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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department.

(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.

The agency was attempting to gather information about the claimant's reported pension by scheduling her for a fact-finding interview. The claimant knew about the interview but missed the call. She has not established good cause for failing to report for the fact-finding interview.

However, claimant has now provided information that any pension she receives is from a non-base period employer.

Claimant was laid off due to lack of work for the week ending April 7, 2018 and is entitled to benefits for that one week ending April 7, 2018. The claimant has now reported information regarding her pension and benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The April 25, 2018, (reference 01) decision is modified in favor of the claimant. The claimant has not established a good cause reason for failing to report as directed for the fact-finding interview but she had now provided the required information about her receipt of pension. Benefits are allowed for the week ending April 7, 2018.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs