

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN GUTHRIE
Claimant

APPEAL NO: 14A-UI-03224-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/08/13
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work
871 IAC 24.2(1)e – Failure to Report

STATEMENT OF THE CASE:

The claimant filed a timely appeal from an unemployment insurance decision dated March 18, 2014, reference 01, which denied benefits effective the week ending March 9, 2014, based on the claimant's failure to report as directed. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on April 16, 2014. The claimant participated in the hearing. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant had good cause for failing to report to Iowa Workforce Development (IWD) as directed.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was scheduled to report to the Department March 12, 2014, for an interview during the week ending March 15, 2014. The claimant had secured new employment and started his new job at the end of February 2014. He contacted the Department to notify it he would be at work during the scheduled interview and a Department employee told him she would notify the fact finder. The claimant did not hear from the Department after his first call so he called back March 12, 2014, and asked if it could use his cell phone if the interview was proceeding despite the fact the claimant had new employment. He was told the fact finder would be given the message but he never received a call on either phone and consequently assumed the issue had been resolved until he received the representative's decision dated March 18, 2014.

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.

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

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.

The claimant had new employment prior to being instructed to report to the Department and made every effort to contact the Department to notify it of his situation and the fact there was no need for an interview as he was done collecting benefits. Because the claimant has established a good-cause reason for not reporting, benefits are allowed.

DECISION:

The unemployment insurance decision dated March 18, 2014, reference 01, reversed. The claimant has established a good-cause reason for failing to report as directed. Benefits are allowed effective the week ending March 9, 2014, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css