

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GRANT A CLICK
Claimant

APPEAL NO. 14A-UI-09352-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 07/06/14
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed an appeal from the representative's decision dated August 29, 2014, reference 02, which denied unemployment insurance benefits effective August 10, 2014 finding that the claimant failed to report as directed and, therefore, did not meet the availability requirements of Iowa law. After due notice was provided, a telephone hearing was held on October 1, 2014. Mr. Click participated personally.

ISSUE:

At issue in this matter is whether the appeal should be considered timely and whether the claimant has complied with the reporting requirements of Iowa Workforce Development.

FINDINGS OF FACT:

The administrative law judge, having considered all the evidence in the record, finds: That a disqualification decision was mailed to the claimant's last-known address of record on August 29, 2014. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by September 8, 2014. The appeal was not filed until September 10, 2014, which is beyond the ten-day statutory time limit. Mr. Click's delay in filing his appeal appears to have been caused, in part, by incorrect information supplied to the claimant by a Claims Center representative who, for reasons that are unknown, had stated to the claimant that she would resolve the matter without filing an appeal. Based upon this information by a Workforce Development employee, Mr. Click did not follow the instructions on filing an appeal that are clearly stated on the adjudicator's determination. The claimant also did not attempt to avail himself of information that would be available to him by merely calling the telephone number provided at the bottom of the form. The administrative law judge concludes that the claimant's failure to file a timely appeal was caused by the action and the misinformation provided to him by an Agency representative. Therefore, the claimant's appeal is considered timely.

Mr. Click filed a claim for unemployment insurance benefits with an effective date of July 6, 2014 and was provided the instructional and informational brochure that explains the unemployment compensation system and its requirements. When filing his claim, Mr. Click indicated that he was receiving pension benefits. Because the claimant's receipt of pension benefits may have affected the benefits payable to him on his unemployment insurance claim, Mr. Click was sent a notice to forward pension information and documentation by August 14, 2014. Mr. Click received that notice but did not comply. The claimant had learned that because he was also on a leave of absence, that the leave of absence would result in him not being considered able and available for work. Because the claimant did not intend to claim additional benefits at that time based upon his availability issue, he did not respond to the notice to report and to provide pension information by the due date provided on the form itself. When Mr. Click had not provided any information in response to the agency's request for additional information on his claim, it was determined that the claimant had not complied with the reporting requirements of the law and benefits were denied as of August 10, 2014.

Later, after Mr. Click's leave of absence issue had been resolved, he reopened his claim for benefits on or about August 7, 2014. The claimant erroneously was issued unemployment insurance benefits for the two weeks between August 10, 2014 and August 23, 2014. Because these benefits were given to the claimant in error after benefits had been denied effective August 10, 2014, it was considered to be an overpayment of unemployment insurance benefits and Mr. Click was held liable to repay the \$832.00 in benefits that he had received but was not entitled to.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant should be considered to be able and available for work based upon his failure to report as directed by August 14, 2014. He should not.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

An otherwise eligible claimant is eligible to receive benefits with respect to any week only if the evidence indicates that the claimant is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code section 96.4(3) and 871 IAC 24.22. The claimant bears the burden of establishing that the claimant meets the above requirements. 871 IAC 24.22.

The claimant, Mr. Click, had made statements at the time that he opened his claim for unemployment benefits indicating that he was receiving pension benefits. Because pension benefits could affect the unemployment insurance benefits payable to Mr. Click he was sent a notice to provide information and documentation about the source of the monthly payments, the

amounts and his contributions to the payments being made to him. The claimant was given a specific date to provide the information by and given a specific fax number for the purpose of submitting the information by its due date. Mr. Click received the notice to report but chose not to comply with the simple instructions to provide the information to a specially identified Claim's representative at a specified number. The claimant instead chose to rely on other information and did not report as directed.

The administrative law judge finds the request to the claimant to report to provide additional information to be reasonable based upon the claimant's previous statement that he was receiving pension benefits. The claimant has supplied no good-cause reasons for failing to simply comply with the directive to provide the specific information to the specific fax number as he was directed. Benefits were properly denied effective August 10, 2014 because he had not met the availability requirements of the law by reporting as directed. The claimant's potential disqualification or ineligibility for benefits for other reasons did not rule the claimant's obligation to provide the information by its due date as directed.

DECISION:

The representative's decision dated August 29, 2014, reference 02, is affirmed. Benefits are denied as of August 10, 2014 based upon the claimant's failure to meet the availability requirements of the law by failing to report as directed.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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