

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 09-IWDUI-209
OC: 11/02/08
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319**.

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.

SATINDER KAUR
3403 STEAMBOAT WAY APT 10
MUSCATINE IA 52761-8455

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
INVESTIGATIONS AND RECOVERY
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209

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.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

DAN ANDERSON, IWD

(Administrative Law Judge)

January 26, 2010

(Decision Dated & Mailed)

Iowa Code section 96.4-3 – Able and Available to Work

STATEMENT OF THE CASE

Satinder Karu filed an appeal from a decision issued by Iowa Workforce Development, denying benefits for not providing proof of legal authorization to work in the United States. The decision was issued on October 22, 2009 (reference = 01).

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on November 13, 2009 for scheduling of a contested case hearing. On November 19, 2009, a Notice of Telephone Hearing was mailed to all parties. On November 30, 2009, a telephone appeal hearing was held before Administrative Law Judge Mark Lambert. Appellant Satinder Karu appeared and testified. IWD investigator Mary Piagentini represented IWD and testified.

Exhibits 1 (consisting of eight pages) was submitted by IWD, and was admitted into the record as evidence.

ISSUES

1. Whether the Department correctly determined that the claimant was not eligible for unemployment insurance benefits because she failed to provide proof of legal authorization to work in the United States.

FINDINGS OF FACT

Satinder Kaur filed a claim for unemployment insurance benefits on October 8, 2009. Because Ms. Kaur is not a United States citizen, she had to provide her alien number. Ms. Kaur provided an eight-digit number beginning with "049" IWD is required to check that number through the federal Department of Homeland Security. IWD did so, and was notified that there was not a match of that number to Ms. Kaur's name.

On October 8, 2009, IWD sent a Notice to Ms. Kaur, requesting a copy of her employment authorization or resident alien card. The Notice gave her until October 21, 2009 to provide a copy of the front and back of the card.

IWD did not receive the required copy of the card by October 21, and on October 22 sent Ms. Kaur a Notice of Decision denying her claim for unemployment insurance benefits for the reason that Ms. Kaur failed to provide proof that she is legally authorized to work in the United States. Ms. Kaur later provided IWD a copy of the front and back of her card, which showed that she was authorized to work in the U.S. The photocopies were received on October 28, 2009. Ms. Kaur had made a typographical error, and had provided an eight-digit number beginning with "o49" when in reality her number began with a "o48." IWD approved her benefits effective October 28, 2009.

Ms. Kaur at all relevant times was eligible to work in the U.S., and she conceded that she had provided the copy of the card after the deadline and had made an error initially in her federal alien ID number.

REASONING AND CONCLUSIONS OF LAW

In order to receive unemployment insurance benefits, the Department (IWD) has to make a finding that an individual is able to work, available for work, and be earnestly and actively seeking work.¹ The burden is on the claimant to establish that he or she is able and available to work.²

Ms. Kaur was eligible to work, but her typographical error on her initial claims means that she did not provide proof of that to the Department. She had until October 21, 2009 to

¹ Iowa Code § 96.4(3) (2009).

² 871 IAC 24.22.

provide the proof, but did not do so by that date. Because she did not prove that she was able to work, the Department could not make such a finding, and therefore the Department properly denied benefits. It is again noted that the Department approved benefits effective October 28, 2009, when Ms. Kaur provided her correct federal alien number.

DECISION

The Department's decision dated October 22 , 2009 (reference 01) denying benefits to Ms. Kaur from October 19, 2009 (until she was later approved for benefits on October 28, 2009) is **AFFIRMED**.

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