

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDALL W SMITH
Claimant

APPEAL 17A-UI-11028-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 10/01/17
Claimant: Appellant (4)**

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 October 25, 2017, (reference 02) decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was set for November 15, 2017. Claimant participated. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: On October 19, 2017, a notice was mailed to the claimant to be available for a call from IWD on October 24, 2017 about his receipt of a pension, based upon his response when filing his weekly continued claim for the week ending October 14, 2017. He did not report because the notice of fact-finding interview was placed in a pile of mail intended for his (former) roommate. The claimant then missed the October 24, 2017 phone call, because he misplaced his phone between October 23 and 27, 2017 and was unaware he had a voicemail. Upon recharging his phone on October 27, 2017, the claimant made two attempts to contact the IWD representative, Debbie, and again on October 30, 2017 to resolve the issue. The claimant filed a weekly continued claim and mistakenly pushed the button indicating he was receiving a pension.

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 not established a good cause reason for having failed to report as directed. Benefits are denied for the one week period ending October 28,

2017 only. The claimant is allowed benefits effective October 29, 2017, provided he is otherwise eligible.

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:

Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

(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 in the individual's account at a financial institution or on a selected debit card.

(2) In order for an individual to receive payment by direct deposit, the individual must provide the financial institution selected by the department with the appropriate bank routing code number and a checking or savings account number.

(3) 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 claimant's failure to participate in the scheduled fact-finding interview was because he lost the notice of fact-finding interview, and then lost his phone and missed the call. These are not good cause reasons for failing to report. However, as soon as the claimant became aware of the missed interview on October 27, 2017, he made multiple good faith efforts to resolve the matter immediately with IWD. The claimant did not receive a pension and mistakenly pushed

the response in the affirmative. For these reasons, the administrative law judge concludes that benefits are denied for the one week period ending October 28, 2017 only. The claimant is then allowed benefits effective October 29, 2017, provided he is otherwise eligible.

DECISION:

The October 25, 2017, (reference 02) unemployment insurance decision is modified in favor of the claimant/appellant. The claimant has not established a good cause reason for failing to report as directed. The underlying issue was the result of a reporting error. Benefits are denied for the one week period ending October 28, 2017 only. The claimant is allowed benefits effective October 29, 2017, provided he is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs