

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MIKE D STANLEY
Claimant

APPEAL 17A-UI-09297-DB-T

**AMENDED
ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 05/28/17
Claimant: Appellant (2R)**

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/appellant filed an appeal from the September 5, 2017 (reference 02) unemployment insurance decision that denied benefits effective August 20, 2017 because claimant failed to report as directed. After due notice was issued, a telephone hearing was held on September 29, 2017. Claimant participated. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did the claimant fail to report as directed or have good cause for doing so?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds:

A notice was mailed to the claimant to be available for a call from Iowa Workforce Development ("IWD") on August 23, 2017. The claimant received the notice from IWD, but did not receive a telephone call from IWD at his correct telephone number. Claimant had updated his telephone number with IWD when he filed his initial claim for benefits.

A notice was mailed to claimant to contact IWD regarding the fact-finding interview. This notice gave claimant until August 29, 2017 to contact IWD. Claimant did not receive this notice in the mail. Claimant contacted his local office when he did not receive a telephone call for the fact-finding interview.

Claimant separated from employment at Papa Kern's restaurant. There has been no initial investigation and determination regarding claimant's separation from this employer. The question of whether the claimant's separation from employment is disqualifying will be remanded to the Benefits Bureau of Iowa Workforce Development

for an initial investigation and determination, with notice and opportunity to participate provided to both claimant and employer.

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.

Iowa Code § 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. 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 account at a financial institution 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.

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 received the notice of fact-finding interview, but did not receive a call from IWD. Claimant did not receive the notice that was mailed to him by IWD to contact the office by August 29, 2017. Claimant did contact his local office to inquire why he did not receive a call for

the fact-finding interview. The claimant does has a good cause reason for failing to report as directed because he did not receive a telephone call from IWD and did not receive the notice to report. Therefore, claimant was able to and available for work and benefits are allowed effective August 20, 2017, provided he is otherwise eligible.

DECISION:

The September 5, 2017 (reference 02) unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed and benefits are allowed effective August 20, 2017, provided claimant is otherwise eligible.

REMAND: The separation issue from Papa Kern's restaurant as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination, with notice and opportunity to participate provided to both claimant and employer.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs