

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NTIRINIGA ETIENNE
Claimant

APPEAL 17A-UCX-00008-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 09/03/17
Claimant: Appellant (5)**

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 September 22, 2017, (reference 04) unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was issued, a telephone conference hearing was set for October 17, 2017. Claimant participated.

ISSUES:

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?
Is the claimant able to work and available for work the week-ending September 9, 2017?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: When claimant filed his online weekly claim for the week ending September 9, 2017, he indicated that he was not able and available. This was an accurate report, as claimant was enrolled as a full-time student and was not seeking employment. A representative from Iowa Workforce Development attempted to reach claimant on September 21, 2017, to inquire about his availability for work. Claimant did not receive this telephone call, and he does not have a voicemail set up so the representative could leave him a message. Claimant does not recall receiving a notice about this telephone call.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that while the claimant has established a good cause reason for having failed to report as directed, he was not actually available for work.

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:

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.

...

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.

Since claimant did not receive the notice or the telephone call, claimant has established a good cause reason for failing to report as directed. However, claimant's report that he was not available for work during the one-week period ending September 9, 2017, was accurate. Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(5) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

Claimant testified that he is enrolled full-time in school and is not currently looking for work. He reported accurately for the one-week period ending September 9, 2017. Therefore, under Iowa Unemployment Security Law, claimant is not available for work. Accordingly, benefits are denied.

DECISION:

The September 22, 2017, (reference 04) unemployment insurance decision is modified with no change in effect. The claimant has established a good cause reason for failing to report as directed, but the underlying issue is disqualifying for the one-week period in question. Benefits are withheld until claimant can establish he is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn