

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEVEN W SPETH
Claimant

APPEAL 17A-UI-02075-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/22/17
Claimant: Appellant (2)**

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 February 20, 2017 (reference 01) 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 March 16, 2017. Claimant participated. Claimant's Exhibit A was received and admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On February 2, 2017, a notice was mailed to the claimant to report to IWD regarding payments from a pension. (Exhibit A, page 1) This notice informed claimant that he needed to respond by February 13, 2017. Claimant testified that he received this request and went to his local office to prepare and submit a response. Claimant provided documentation from his local office showing the local office attempted to fax the response three times prior to the deadline, and each fax transmission was unsuccessful. (Exhibit A, page 2) Therefore, the local office eventually emailed the documentation to UI Claims Help. (Exhibit A, page 2)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes 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 department retains the ultimate authority to choose the method of reporting and payment.

Here, claimant provided credible evidence that he reported the information requested from him. Any delay that was caused from the faxing errors is attributable to the agency. If the agency is going to accept fax transmissions, it bears the responsibility of maintaining an operable system. Benefits are allowed.

DECISION:

The February 20, 2017 (reference 01) unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. Benefits are allowed effective February 12, 2017, provided he is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed