

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DAWN RUSSO**  
Claimant

**APPEAL 17A-UI-02399-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 12/18/16  
Claimant: Appellant (2)**

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Iowa Code § 96.6(2) – Timeliness of Appeal  
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 an appeal from the February 13, 2017, (reference 04) unemployment insurance decision that denied benefits because of a failure to report as directed. After due notice was waived by claimant, a telephone conference hearing was held on March 3, 2017. Claimant participated.

**ISSUES:**

Is the appeal timely?  
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: Claimant had several outstanding issues to resolve with the agency regarding her unemployment benefits. On February 10, 2017, claimant went to her local office and sat down with an IWD employee to resolve the issues. One of the actions claimant took was to file an appeal of the January 31, 2017 (reference 02) decision denying her benefits. Claimant was told she would be having a telephone hearing that would resolve the issue that was preventing her from receiving benefits.

The February 13, 2017, (reference 04) unemployment insurance decision denying claimant benefits based on her failure to report to the agency was mailed to the appellant's address of record on February 13, 2017. Claimant received the decision several days later. Claimant did not immediately appeal the decision because she believed she had taken all of the necessary actions needed to resolve the issues with her benefits and simply had to wait for the upcoming telephone hearing. It was not until the March 3, 2017, telephone hearing until claimant learned that she was ineligible for benefits during the one week ending February 11, 2017, because of the February 13, 2017, (reference 04) unemployment insurance decision. Claimant then stated she wanted to appeal the decision.

Claimant was scheduled to report to complete a work registration on February 10, 2017, at 3:00 p.m. Claimant did not report because she did not receive the notice. In fact, claimant was at her local office that day seeking assistance with other issues.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

Claimant did not appeal the decision because of confusing information provided by the agency. Claimant believed all of the outstanding issues had been resolved or would be resolved during her upcoming appeal hearing. As soon as claimant realized her mistake, she appealed the decision. Therefore, her appeal shall be accepted as timely.

For the reasons that follow, the administrative law judge further 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. 871-24.23(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 she did not receive the notice, claimant has established a good cause reason for failing to report as directed, benefits are allowed.

**DECISION:**

The appeal is timely. The February 13, 2017, (reference 04) unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. Benefits are allowed effective February 5, 2017, provided she is otherwise eligible.

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Decision Dated and Mailed

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