

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRENNEN J CARTER
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 16A-UI-02501-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/10/16
Claimant: Appellant (1R)

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 appealed an unemployment insurance decision dated February 24, 2016 (reference 01), that concluded he was ineligible for benefits effective February 21, 2016, because he did not report to the Agency as directed. A telephone hearing was held on March 23, 2016. The claimant participated personally in the hearing. Department exhibit D-1 was admitted into evidence. The administrative law judge took official notice of the administrative record, including fact-finding documents.

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: A notice was mailed to the claimant on February 10, 2016 that stated there was a telephone interview scheduled for February 23, 2016. The notice also stated that failure to participate in the interview could result in being disqualified from receiving unemployment insurance benefits.

The fact-finding interview call was based on the claimant's request for a telephone interview in response to a letter of inquiry from the agency, in which the claimant reported he had quit a job when filing his claim for the week ending January 23, 2016. The phone number listed on the claimant's records and the fact-finding interview on February 23, 2016 was 402-670-0695. This phone number has not been a valid number for the claimant since July or August 2015, but the claimant did not see that it was listed and did not update his records.

The claimant did not participate in the interview because he did not realize the incorrect phone number was listed for his phone interview. The claimant was unaware of the phone number listed because his mother files his weekly unemployment claims for him. Upon receiving the

initial decision and learning the agency had called an outdated phone number, the claimant then updated IWD records to reflect his current number. The claimant did receive a copy of the claimant handbook upon filing for benefits but stated he had not read it due to lack of time.

Had the claimant participated in the fact-finding telephone interview, he would have confirmed that he was employed at the Lake Manawa Dairy Queen for a period of four days before separating. The claimant has not reported wages earned from that position, and the separation has not yet been determined at the claims level.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying issue was not the result of a reporting error, and the claimant has not 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 and the payment of benefits, provided the individual is otherwise eligible, shall be on a biweekly basis by mail if the claimant files a Form 60-0151.

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 financial institution's account 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 unemployment insurance law provides that a claimant must be able to work, available for work, and actively seeking employment. Iowa Code Section 96.4-3. Under the unemployment insurance rules, a claimant who fails to report as directed to the Agency in response to a notice mailed to the claimant is deemed unavailable for work. 871 IAC 24.23(11).

The claimant's failure to report for the phone interview was due to the claimant not updating his contact information with the Agency. The phone number on file at the time of the fact-finding interview had been invalid for almost six months, but the claimant did not update the agency or confirm the correct phone number was on file, when he requested a telephone fact-finding interview. The claimant's mother filing his claims does not excuse or mitigate the claimant's responsibility to provide the Agency accurate and updated contact information. The claimant's failure to participate in the fact-finding interview was not due to Agency or postal service error. Based on the evidence presented, the claimant has failed to demonstrate good cause for his failure to report as directed.

REMAND:

The Lake Manawa Dairy Queen employment and separation issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The February 24, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant has not established a good-cause reason for failing to report as directed. Benefits are denied effective February 21, 2016. The underlying separation issue is remanded for an initial investigation and determination.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/pjs