

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

JOSHUA A BJORK
Claimant

APPEAL NO. 23A-UI-03475-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/05/23
Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Administrative Code rule 871-24.3(2) – Verification of Identity

STATEMENT OF THE CASE:

On March 31, 2023, Joshua Bjork (claimant) filed a timely appeal from the March 22, 2023 (reference 01) decision that allowed benefits effective March 19, 2023, based on the deputy's determination the claimant had been disqualified for benefits for failing to prove his identity, but had subsequently provided the requested documents to verify his identity. The effect of the decision was to deny benefits for the period of March 5, 2023 through March 18, 2023. After due notice was issued, a hearing was held on April 17, 2023. Claimant participated. Exhibit A, the appeal letter and IowaWORKS fax cover sheet, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, the March 9, 2023 ID verification letter, and the March 22, 2023 (reference 01) decision.

ISSUES:

Whether the claimant failed to provide timely identification verification and, therefore, did not meet the availability requirement during the period of March 5, 2023 through March 18, 2023.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Joshua Bjork established an original claim for benefits that was effective March 5, 2023. Mr. Bjork has at all relevant times been attached to a construction industry employer. Mr. Bjork went to the Decorah IowaWORKS and used a computer at that office to make his initial application for benefits. The claimant did not see an online prompt in the application regarding submission of ID documentation to verify his identity. Prior to leaving the IowaWORKS Center after completing the online application, the claimant asked IowaWORKS Center staff whether IWD needed his ID. According to the claimant, an IWD representative told him no, that the Agency only randomly requested ID verification. The claimant made weekly claims for the weeks ending March 11, 18, and 25, 2023. The claimant then discontinued weekly claims.

On March 9, 2023, Iowa Workforce Development mailed the claimant an ID verification letter. The letter stated:

We were not able to verify your identity. If you do not submit proof of your identity by 03/15/23, your benefits may be delayed or denied. Any documents sent by mail must be postmarked by the due date to be considered.

You must still submit proof of identity to receive any benefit payments even if the due date has passed.

The letter went on to designate acceptable forms of ID and various means by which the claimant could submit the ID verification documents.

The United States Postal Service delivered the ID verification letter to the claimant's rural Winneshiek County address of record on March 15, 2023, the due date set forth in the March 9, 2023 address verification letter. On March 15, 2023, the claimant flew to Las Vegas for a construction industry convention. On the evening of March 15, 2023, the claimant's spouse notified the claimant that she had received the ID verification letter in the mail that day. On Sunday, March 19, 2023, the claimant returned home from the construction industry conference. On Monday, March 20, 2023, the claimant presented ID verification documentation at the Decorah IowaWORKS.

On March 22, 2023, Iowa Workforce Development mailed the March 22, 2023 (reference 01) decision that allowed benefits effective March 19, 2023, based on the deputy's determination the claimant had been disqualified for benefits for failing to prove his identity, but had subsequently provided the requested documents to verify his identity.

REASONING AND CONCLUSIONS OF LAW:

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 Administrative Code rule 871-24.3(2) provides as follows:

(2) The claim will not become valid until the identity has been verified by the department. If the claimant has not provided the information to verify identity within seven calendar days of filing of a claim, the claim will be voided. The claimant must submit another claim for benefits. The effective date of the claim would be the Sunday of the week the identity was verified.

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. Iowa Administrative Code rule 871-24.2(1)(e). 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. Iowa Administrative Code rule 871-24.23(11).

Iowa Administrative Code Rule 871-24.35(2) provides:

Date of submission and extension of time for payments and notices.

(2) The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The claimant had good cause for not providing the ID verification documents to IWD by the March 15, 2023 deadline set forth in the March 9, 2023 ID verification letter. The United States Postal Service delayed service of the March 9, 2023 ID verification letter to March 15, 2023, the very day the March 9 letter stated the ID verification documents were due. The claimant became aware of the ID verification letter on the evening of March 15, 2023. The claimant was at that point out of state and unable to immediately respond to the March 9, 2023 letter. The claimant returned home on Sunday, March 19, 2023 and promptly presented the ID verification documentation on Monday, March 20, 2023. The claimant provided ID verification documentation within a reasonable time after receiving the ID verification notice/letter. No disqualification shall apply based on the ID verification issue. The claimant is eligible for benefits for the period beginning March 5, 2023, provided the claimant meets all other eligibility requirements.

DECISION:

The March 22, 2023 (reference 01) decision is MODIFIED in favor of the claimant/appellant as follows. The claimant had good cause, attributable to delayed USPS delivery, for not providing the ID verification documents to IWD by the March 15, 2023 deadline set forth in the March 9, 2023 ID verification letter. The claimant provided ID verification documentation within a reasonable time after receiving the ID verification notice/letter. No disqualification shall apply based on the ID verification issue. The claimant is eligible for benefits for the period beginning March 5, 2023, provided the claimant meets all other eligibility requirements.



James E. Timberland
Administrative Law Judge

April 24, 2023
Decision Dated and Mailed

jet/mh

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.