

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RITA DRUKPA
Claimant

APPEAL 18R-UI-06858-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/11/18
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 May 2, 2018, (reference 02) 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 July 12, 2018. Claimant participated with the assistance of a Nepali interpreter from CTS Language link.

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: On April 26, 2018, a notice was mailed to the claimant to be available for a call from IWD on May 1, 2018, at 3:00 p.m. about her availability for work the week ending April 21, 2018. Claimant's primary language is Nepali and her English proficiency is very limited. The claimant did not report because her English proficiency was not sufficient to read or understand the notice. Claimant testified she did not recall seeing any missed calls on the date in question, but admitted she was not sure how to check her call log, nor was she sure how to tell if she had a voicemail or to how to check her voicemail. The claimant filed a weekly claim and mistakenly indicated she was not available for work. Once claimant received the disqualifying decision she contacted IWD to file an appeal.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying issue was the result of a reporting error, and the claimant has established a good cause reason for having failed to report as directed.

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.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or on a selected debit card.

(2) 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.

(3) 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.

Claimant does not recall getting a call at the scheduled time of the fact-finding interview and testified she was unable to read the notice, as English is not her primary language. Since claimant could not understand the hearing notice she has established a good cause reason for failing to report as directed.

DECISION:

The May 2, 2018, (reference 02) unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. The underlying issue was the result of a reporting error. Benefits are allowed effective April 29, 2018, provided she is otherwise eligible.

Nicole Merrill
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Decision Dated and Mailed

nm/rvs