

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

HAROLD D JONES
Claimant

APPEAL NO. 15A-UI-08507-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/05/15
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the representative's decision dated July 27, 2015, reference 01, which denied unemployment insurance benefits as of July 19, 2015 upon a finding that the claimant was mailed a notice to report to Iowa Workforce Development but failed to report as directed. After due notice was provided, a telephone hearing was held on August 19, 2015. Mr. Jones participated personally. Participating as a witness was his wife, Delores Jones.

ISSUE:

At issue is whether the claimant failed to report as directed.

FINDINGS OF FACT:

The administrative law judge, having considered all the evidence in the record, finds: Harold Jones opened a claim for unemployment insurance benefits with an effective date of July 5, 2015. The informational brochure that explains the unemployment compensation system and its requirements was available to the claimant. On or about July 19, 2015, however, Mr. Jones did not receive the notice to report at his address of record and therefore did not report as directed.

Although Mr. Jones had previously not experienced any significant problems with the delivery of his mail, the claimant did not receive the notice to report and therefore was unable to follow the directive to report. Ms. Delores Jones, the claimant's spouse who resides at the same address, verified that the notice to report had not arrived at the residence.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant is able and available for work. It does.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

An otherwise eligible claimant is eligible to receive benefits with respect to any week only if the evidence indicates that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code section 96.4(3) and 871 IAC 24.22. The claimant bears the burden of establishing that the claimant meets the above requirements. 871 IAC 24.22.

To satisfy the ableness requirement, an individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which one that is engaged in by others as a means of livelihood. 871 IAC 24.22(1).

To satisfy the availability requirement, an individual must be willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, and most generally attached to the labor market. An individual must not set up limitations that are unreasonable or bar the claimant from immediate reemployment. Claimants are expected to respond to directives and inquiries from Iowa Workforce Development and may be denied unemployment insurance benefits if they fail to report or follow other reasonable directives given to them by the Agency.

In the case at hand, both Mr. Jones and his wife testified that the notice to report was not received at their address of record and therefore the claimant could not report as directed because he had no knowledge that he was expected to do so. The administrative law judge finds Mr. Jones and his wife to be credible witnesses and finds that their testimony is not inherently improbable.

The administrative law judge concludes that the claimant has established good cause for failing to report. The evidence in the record establishes that the claimant is able and available for work and has established good cause for his failure to report as directed. Unemployment insurance are therefore allowed providing the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated July 27, 2015, reference 01, is reversed. The claimant is able and available for work. Good cause has been shown for failure to report as directed. Benefits are allowed as of July 19, 2015, provided Mr. Jones meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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