

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MYKHAYLO M IGNATENKO
Claimant

APPEAL 17A-UI-06903-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/18/16
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/appellant filed an appeal from the June 28, 2017 (reference 01) unemployment insurance decision that denied benefits effective June 25, 2017 because claimant failed to report as directed. After due notice was issued, a telephone hearing was held on July 26, 2017. Claimant participated personally. Witness Inna Stripkova testified on behalf of the claimant. Language interpretation services were provided by CTS Language Link. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

ISSUE:

Is claimant able to and available for work effective June 25, 2017?
Did the claimant fail to report as directed or have good cause for doing so?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds:

The claimant reported he refused an offer of work when filing his weekly continued claim for the benefit week ending June 10, 2017. He reported this incorrectly, as he did not refuse an offer of work during the benefit week ending June 10, 2017.

A notice was mailed to the claimant to be available for a call from Iowa Workforce Development (IWD) on June 27, 2017. The claimant received the notice from IWD, but did not have a working telephone. Claimant contacted IWD to have IWD contact claimant's wife, Inna Stripkova, for the fact-finding interview on June 27, 2017. However, claimant's wife took the phone to work with her and it was turned off at that time when IWD attempted to contact the claimant. The next day claimant and his wife personally visited their local IWD office to report that claimant missed the telephone call and incorrectly reported that he refused an offer of work for the benefit week ending June 10, 2017.

The claimant is on temporary lay-off from his full-time position as a cook. He will return to work once students return to Dubuque College, where his employer, Ameriserve Inc., employs him.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has established a good cause reason for his failure to report as directed. Benefits are allowed.

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".**

(emphasis added).

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 claimant had good cause for failure to report as directed. Claimant was able to and available for work and benefits are allowed, provided he is otherwise eligible. The work search requirements *and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived.* Iowa Code § 96.4(3). Benefits are allowed.

DECISION:

The June 28, 2017 (reference 01) unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. Benefits are allowed effective June 25, 2017, provided claimant is otherwise eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs