

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ESTHER G HEISE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 24A-UI-05276-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/21/24
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
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:

On May 30, 2024, claimant Esther G. Heise filed an appeal from the May 20, 2024 (reference 03) unemployment insurance decision that denied benefits effective May 12, 2024 because claimant failed to report for an Iowa Workforce Development (“IWD”) appointment or obligation. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on June 4, 2024. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 10:00 a.m. on Wednesday, June 19, 2024. Claimant Esther G. Heise participated. The administrative law judge took official notice of the administrative record to review claimant’s claim for unemployment insurance benefits and to review the mainframe screens DBRO and KCCO.

ISSUES:

Whether claimant is able to and available for work.
Whether claimant failed to report as directed by a department representative.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant opened her claim for benefits during the week of April 21, 2024, because her employer put her on a three-week layoff. When claimant filed her first weekly continued claim, she mistakenly reported that she had refused an offer of work. This report was an error. Claimant did not apply for any jobs and did not refuse any offers of work while filing claims for benefits.

IWD sent claimant notice of a fact-finding call to discuss her weekly claim; this call was scheduled during the week of May 12, 2024. Claimant went back to work that week, and she did not participate in the fact-finding call. Additionally, she did not understand what the letter meant or why she received it. Later, claimant received the May 20, 2024 (reference 03) decision denying her benefits because she failed to report for that phone call. She took that decision to her employer and asked them what to do. The employer suggested she go to IWD, so claimant went to the Waterloo IowaWorks office and sought assistance. An employee at the

office explained what the decision meant and why it was issued. At that point, claimant filed an appeal.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant failed to report initially but subsequently reported to IWD. Additionally, the underlying issue was a simple mistake. Claimant is eligible for benefits.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

1. Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

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.

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 admits she did not participate in the fact-finding interview because she did not understand the purpose of the interview. Ordinarily, claimant's failure to participate in that interview would disqualify her from receiving benefits until she reported to IWD. However, she did not file a claim for benefits the week of that interview, so that issue is effectively moot.

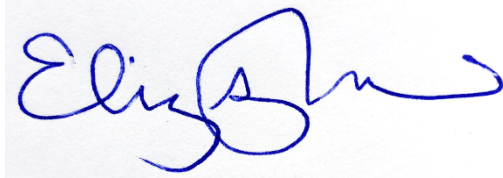
Additionally, claimant has since reported to IWD to explain what happened and to resolve any outstanding issues with her claim.

The reason IWD scheduled the fact-finding interview was to inquire about claimant reporting she refused an offer of work the week ending April 27, 2024. Claimant did not refuse an offer of work that week. That report on her weekly claim was a mistake. Benefits are allowed provided claimant is otherwise eligible.

DECISION:

The May 20, 2024 (reference 03) unemployment insurance decision is modified in favor of the claimant. Claimant has established her ability to and availability for work effective April 21, 2024. Benefits are allowed provided claimant is otherwise eligible.

Any lock that was placed on claimant's claim should be removed, as claimant has reported to IWD and resolved all concerns related to her claim.



Elizabeth A. Johnson
Administrative Law Judge

June 20, 2024
Decision Dated and Mailed

lj/scn

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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
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 se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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.