

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**DENNIS R SHELTON
506 5TH AVE
CLARENCE IA 52216**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 05A-UI-01425-MT
OC: 10/17/04 R: 03
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.2(1)g - Failure to Report
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a decision dated January 11, 2005, reference 01, that denied benefits effective October 17, 2004, for failure to report for reemployment services. After due notice was issued, a hearing was held by telephone conference call before an administrative law judge on February 24, 2005. Claimant did participate. Exhibit A was admitted into evidence.

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: Claimant filed his weekly claim with the voice response unit for the one week

ending October on 23, 2004. The claim did not work for some unknown reason. Claimant went to the local office to see about his check and was finally sent an adverse decision on January 11, 2005. Claimant did not receive the decision. Claimant filed his appeal after going to the local office to check on the status of his claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has established a good cause reason for having delayed his request for benefits. Claimant did file his claim with the voice response unit but it did not work. Benefits allowed for the one week ending October 23, 2004.

871 IAC 24.2(1)g provides:

g. No continued claim for benefits shall be allowed until the individual claiming benefits has furnished to the department a signed Form 60-0151, Claim for Benefits, or filed a voice response continued claim. The biweekly claim for benefit payment shall be mailed not earlier than noon of the second Saturday of the biweekly reporting period and, unless reasonable cause can be shown for the delay, not later than Friday of the week immediately following the biweekly reporting period. The weekly voice response continued claim shall be transmitted not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

The second issue concerns the timeliness of appeal.

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to

both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The appeal is timely as claimant appealed immediately upon finding that his claim had been denied.

DECISION:

The decision of the representative dated January 11, 2005, reference 01, is reversed. Benefits shall be withheld effective October 17, 2004.

mdm/tjc