

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAVID L PETTIS
Claimant

APPEAL 18A-UI-02030-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/07/18
Claimant: Appellant (2R)**

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 February 9, 2018, (reference 01) 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 March 9, 2018. Claimant participated. The administrative law judge took official notice of the administrative record.

ISSUES:

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: The claimant filed a weekly continued claim for the one-week period ending January 20, 2018, and properly reported that he had received a pension that week. On February 8, 2018, a representative from Iowa Workforce Development attempted to call claimant and discuss the pension issue with him. The administrative record does not show that claimant was ever mailed a notice in advance of this telephone call. Claimant did not answer when the representative called him. Claimant first learned about this telephone call after his benefits had been locked for failure to participate in the call. He received the decision stating he was ineligible for benefits because he failed to report as directed, and he took the proper steps to appeal that decision.

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 failed to report as directed. Benefits are allowed, provided he is otherwise eligible.

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.

The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department.¹ An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis.

The department retains the ultimate authority to choose the method of reporting and payment.

Iowa Admin. Code r. 871-24.23(11) provides:

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.

Since claimant did not receive any notice that he was going to receive a telephone call from the agency about the pension issue, claimant has established a good cause reason for failing to report as directed. The underlying issue here is claimant's pension and whether receipt of that pension affects his weekly benefits. This matter will be remanded to the Benefits Bureau for further investigation of that issue.

¹ As of October 1, 2016, the agency requires all continued weekly claims to be filed online.

DECISION:

The February 9, 2018, (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 February 4, 2018, provided he is otherwise eligible.

REMAND:

The issue of whether claimant is receiving a pension that should be deducted from his unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn