

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMMY S LETTE

Claimant

APPEAL NO. 14A-UI-04801-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/23/14

Claimant: Appellant (2)

Section 96.4-3 - Able to and Available for Work
871 IAC 24.23(11) - Failure to Report as Directed

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 16, 2014, reference 02, that concluded she was ineligible for benefits effective March 16, 2014, because she did not report to the Agency as directed. A telephone hearing was held on May 29, 2014. The claimant participated in the hearing. Exhibit A-1 were admitted into evidence at the hearing.

ISSUES:

Did the claimant file a timely appeal?
Did the claimant fail to report to the Agency as directed?
Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of February 23, 2014. She was informed and understood that under the unemployment insurance rules, claimants were subject to disqualification for failing to report to the Agency as directed.

On her weekly claim for benefits for the week ending March 22, 2014, she mistakenly reported that she not available for work. In fact, the claimant was able to and available for the week and had contacted two employers seeking employment.

A notice was mailed to the claimant on April 3, 2014, that stated there was a telephone interview scheduled for April 15, 2014, between 11 a.m. and noon to discuss the issue of whether she was available for work during the week ending March 22, 2014. The notice also stated that failure to participate in the interview could result in being disqualified from receiving unemployment insurance benefits.

The claimant received the notice and waited for the call from 11 a.m. through 12:30 p.m. She never received a call. She had no missed calls or any message on voice and assumed the matter was resolved.

An unemployment insurance decision was mailed to the claimant's last-known address of record on April 16, 2014. The decision concluded she was ineligible for benefits effective March 16, 2014, and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by April 26, 2014.

The claimant never received the decision. She contacted her local Workforce Development Center on May 9, 2014, to find out why her claims were not being paid. She immediately filed a written appeal on that day.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. Iowa Code § 96.6-2.

The next question is whether the claimant had a reasonable opportunity to file an appeal in a timely fashion. Hendren v. IESC, 217 N.W.2d 255 (Iowa 1974); Smith v. IESC, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed her appeal late because she never received the disqualification decision. The claimant did not have a reasonable opportunity to file a timely appeal. The appeal is deemed timely.

The next issue in this case is whether the claimant is ineligible for benefits because she did not report to the Agency as directed and/or was unavailable for work.

The unemployment insurance law provides that a claimant must be able to work, available for work, and actively seeking employment. Iowa Code § 96.4-3. Under the unemployment insurance rules, a claimant who fails to report as directed to the Agency in response to a notice mailed to the claimant is deemed unavailable for work. 871 IAC 24.23(11).

The claimant was able to and available for work during the week ending March 16 and afterward.

Although the claimant was available for the interview on April 15, 2014, she did not receive a call. She is not subject to disqualification for failing to report as directed.

DECISION:

The unemployment insurance decision dated April 16, 2014, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits effective March 16, 2014, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs