

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

DAVID DAVIDSON  
3300 – 48<sup>TH</sup> PLACE  
DES MOINES IA 50310

IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-09140-ET  
OC: 03-07-04 R: 02  
Claimant: Appellant (2R)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

345 IAC 4.23(27) - Failure to Report  
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated June 30, 2004, reference 05, which found the claimant ineligible for unemployment insurance benefits effective May 22, 2004, for failure to report to the Department as directed. After due notice was issued, a hearing was held on September 16, 2004. The claimant participated in the hearing.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on June 30, 2004. The claimant did not receive the decision and consequently did not file an appeal in a

timely manner. Because the claimant did not receive the decision, the administrative law judge concludes the appeal is timely.

The remaining issue is whether the claimant failed to report to the Department as directed. The claimant filed a claim for unemployment insurance benefits with an effective date of March 7, 2004, and an additional date of May 16, 2004. During the fact-finding interview regarding the claimant's separation from employment with the US Postal Service May 19, 2004, questions arose about the claimant's ability to work due to medical issues. The claimant was given the option of having that issue adjudicated at that time but chose to wait and have it rescheduled for another time. The issue of whether he was able and available for work was subsequently scheduled June 29, 2004. The claimant did not respond to the notice to report for that interview and did not provide the required medical information and consequently was disqualified from receiving benefits effective May 22, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

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".

871 IAC 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.

While the claimant is obligated to report to the Department as directed when questions regarding his eligibility for benefits arise, the claimant testified he did not report because he did not receive the notice informing him to do so. Consequently, the administrative law judge concludes the claimant has established good cause for failing to report as directed. The issue of whether the claimant was able and available for work effective the week ending May 16, 2004, has not been resolved and is remanded to the Claims Section for an initial determination. The claimant should be aware that the Department will be contacting him to provide a medical information sheet and his failure to respond to the request for that information could render him ineligible for unemployment insurance benefits and determine whether he is overpaid benefits.

DECISION:

The representative's decision dated June 30, 2004, reference 05, is reversed. The claimant has provided good cause for failing to report as directed. The issue of whether the claimant is able and available for work beginning the week ending May 16, 2004, is remanded to the Claims Section for an initial determination.

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