

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

BRIAN P MCGUIRE
Claimant

APPEAL NO. 23A-UI-08406-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 07/23/23
Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Administrative Code rule 871-24.3(2) – Verification of Identity
Iowa Administrative Code Rules 871-24.2(1)(e) & 871-24.23(11) – Failure to Report as Directed

STATEMENT OF THE CASE:

On September 1, 2023, Brian McGuire (claimant) filed a timely appeal from the August 23, 2023 (reference 01) decision that allowed benefits for the period beginning August 20, 2023, provided the claimant met all other eligibility requirements, based on the deputy's determination that the claimant had been disqualified for benefits for failing to prove his identity but since then had provided documents to verify his identity. After due notice was issued, a hearing was held on September 19, 2023. Claimant participated. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, WAGEA, the August 7, 2023 ID verification letter, and the reference 01 Statement of Fact/Decision Worksheet and attached ID verification documents.

ISSUES:

Whether the claimant was available for work within the meaning of the law during the period that began July 23, 2023.

Whether the claimant failed to provide timely identification verification and, therefore, did not meet the availability requirement during the period of July 23, 2023 through August 19, 2023.

FINDINGS OF FACT:

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

Brian McGuire (claimant) is employed by John Deere Construction Equipment as a full-time truck driver. During the week of July 23-29, 2023, the claimant was temporarily laid off from John Deere in connection with a short-term shutdown. The claimant remained ready, willing and able to work during that week, but the employer did not have work for the claimant during that week.

The claimant established an original claim for benefits that was effective July 23, 2023. At the time the claimant submitted his initial application for benefits, he did not observe the section of the application that directed him to upload documents to verify his identity,. The claimant made a weekly claim for the week that ended July 29, 2023 and then discontinued his claim.

On August 1, 2023, the claimant checked the status of his unemployment insurance benefits online and saw that IWD wanted him to submit documents to verify his identity. On that day, the claimant mailed a copy of his driver's license and a copy of his Social Security card to Iowa Workforce Development. The claimant then left for a vacation in rural Canada. The claimant's spouse remained behind at the couple's Knoxville, IL residence.

In a Statement of Fact/Decision Worksheet pertaining to a later, second submission of ID verification documents, IWD acknowledged that the claimant had submitted one or more ID verification documents on August 4, 2023. There is no indication in the IWD reference 01 supplemental documents of what ID verification document(s) the claimant submitted as part of the initial submission, how he submitted the document(s), or what IWD did with the document(s). Rather, IWD merely documented in the Statement of Fact/Decision Worksheet that the claimant's initial submission of ID verification documents was "partial."

On August 7, 2023, IWD mailed an ID verification letter to the claimant's Knoxville, Illinois address of record. The letter directed the claimant to submit ID verification documents by August 13, 2023 or risk delay or disqualification for benefits. Because August 13, 2023 was a Sunday, the deadline would have been extended by operation of law to Monday, August 14, 2023.

The United States Postal Service delivered the ID verification letter to the claimant's address of record in a timely manner. The claimant's spouse received the correspondence and held onto it until the claimant returned home late in the evening on August 12, 2023.

On August 13, 2023, the claimant reviewed the ID verification letter. The claimant made a copy of his driver's license, his social security card, and his passport and mailed these the same day. Because August 13, 2023 was a Sunday, the earliest the mail could have been postmarked was Monday August 14, 2023.

IWD had date-stamped this second submission as received on August 21, 2023. IWD did not preserve an envelope, postmark information, or any other documentation regarding when and how the materials were submitted by the claimant. IWD date-stamped this second submission as received on August 21, 2023.

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".

Iowa Administrative Code rule 871-24.3(2) provides as follows:

(2) The claim will not become valid until the identity has been verified by the department. If the claimant has not provided the information to verify identity within seven calendar days of filing of a claim, the claim will be voided. The claimant must submit another claim for benefits. The effective date of the claim would be the Sunday of the week the identity was verified.

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. Iowa Administrative Code rule 871-24.2(1)(e). 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. Iowa Administrative Code rule 871-24.23(11).

Iowa Administrative Code rule 871-24.2.(1)(g) provides as follows:

(g). No continued claim for benefits shall be allowed until the individual claiming benefits has completed a continued claim or claimed benefits as otherwise directed by the department.

(1) The weekly continued claim shall be transmitted not earlier than 8 a.m . on the Sunday following the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on Friday following the weekly reporting period.

The claimant only made a claim for the week that ended July 29, 2023. The claimant intentionally did not file weekly claims for the weeks that ended August 5, 12, and 19, 2023 and is not seeking benefits for those additional three weeks.

The outcome of this case comes down to the claimant's testimony and IWD's failure to properly document in connection with the ID verification matter. The weight of the evidence in the record establishes that that claimant filed the required ID verification documents, a driver's license and a Social Security card, in a timely manner by mail on August 1, 2023. The weight of the evidence indicates that the claimant again filed the required ID verification documents, a driver's license and a Social Security card, in a timely manner by mail on August 14, 2023. No disqualification shall enter in connection with the ID verification issue. The claimant is eligible for benefits for week that ended July 29, 2023, provided he is otherwise eligible.

DECISION:

The August 23, 2023 (reference 01) decision is MODIFIED in favor of the claimant/appellant. The claimant submitted ID verification documents in a timely manner. No disqualification shall enter in connection with the ID verification issue. The claimant is eligible for benefits for week that ended July 29, 2023, provided he is otherwise eligible.



James E. Timberland
Administrative Law Judge

September 26, 2023
Decision Dated and Mailed

JET/jkb

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:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
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>.

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:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
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 está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.