

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEE A BENSON
Claimant

APPEAL 17A-UI-02985-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/22/17
Claimant: Appellant (2)**

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 March 10, 2017 (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 April 10, 2017. Claimant participated. The administrative law judge took official notice of the fact-finding documentation and claimant's weekly continued claims for benefits.

ISSUE:

Did the claimant fail to report as directed or offer a good cause reason for failure to do so?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant testified he received a notice in the mail stating he needed to be available for a telephone call from IWD at 10:00 a.m. on a certain day. Claimant was in his office waiting by the telephone on the date of the call, and he never received a call. Subsequently, claimant received the unemployment insurance decision disqualifying him and indicating that he was supposed to have called IWD, rather than the other way around.

The fact-finding documentation shows that claimant reported he received a pension on his weekly claim ending February 25, 2017. Claimant denies receiving a pension that week, and he denies reporting the same. Claimant testified he filed his weekly claim each week by contacting someone via telephone, as he does not have access to the internet.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the underlying issue was the result of a reporting error, and the claimant has established a good cause reason for having failed to report as directed.

Iowa Code § 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. 871-24.23(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.

Here, claimant testified that he received a notice that he would be receiving a telephone call at 10:00 a.m. from IWD. Claimant was available for the telephone call, but he never received a call from the agency. As there is no evidence in the record that claimant was the party responsible for any failure to report, benefits are allowed.

DECISION:

The March 10, 2017 (reference 01) unemployment insurance decision is reversed. The claimant has established a good cause reason for failing to report as directed. The underlying issue was the result of a reporting error. Benefits are allowed effective March 5, 2017, provided he is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed