

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROSE A AMES

Claimant

APPEAL NO. 15O-UI-03678-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD SAMARITAN SOCIETY INC

Employer

OC: 12/21/14

Claimant: Appellant (2)

Section 96.4-3 – Able and Available
871 IAC 24.2(1)e – Failure to Report

STATEMENT OF THE CASE:

Rose Ames (claimant) appealed a representative's January 16, 2015, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she failed to respond to a call-in notice and was, therefore, not eligible to receive unemployment insurance benefits based on her employment with Good Samaritan Society (employer). This administrative law judge issued a decision on February 24, 2015, affirming the representative's decision. A decision of remand was issued by the Employment Appeal Board on March 23, 2015. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 28, 2015. The claimant participated personally. The employer participated by Kyla Yates, Human Resources Director, and Carol Wilburn, Administrator.

ISSUE:

The issue is whether the claimant is able and available for work and whether the claimant failed to report to the agency as directed.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from January 7, 2013, through December 11, 2014, as a certified nursing assistant. On December 12, 2014, she was arrested, temporarily incarcerated, and placed on pre-trial release. As she awaits trial the employer considers her employed but has placed her on a leave of absence pending her trial on May 19, 2015. The claimant is able and available to perform other work.

The claimant did not receive any notice to report to the agency.

A representative's April 8, 2015 (ref 03) decision on the claimant's separation from employment/leave of absence was issued. This administrative law judge does not have jurisdiction to hear this issue at this time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able and available for work.

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".

There was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed.

The administrative law judge also concludes the claimant has established a good cause reason for having failed to report as directed.

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 and the payment of benefits, provided the individual is otherwise eligible, shall be on a biweekly basis by mail if the claimant files a Form 60-0151.

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. An individual who files a voice response continued claim will have the benefit payment automatically deposited weekly in the individual's financial institution's account or be paid by the mailing of a warrant on a biweekly basis.

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

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

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.

The claimant did not receive any direction to report to the Agency. The claimant is eligible to receive unemployment insurance benefits because she did not receive the Agency's call-in notice.

DECISION:

The representative's January 16, 2015, decision (reference 01) is reversed. The claimant is eligible to receive unemployment insurance benefits because she did not receive the Agency's call-in notice and she is able and available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs