

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 13IWDUI259
OC: 05/09/13
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

MELISSA BENNING
1015 BINGHAM AVENUE
ROWAN, IA 50470

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & ANGELA PETERSON

TERESA K. HILLARY, IWD
CARLA DENNIS, IWD

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 Notice of Appeal, directly to the **Employment Appeal Board, 4TH 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 the department. 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.2(1)(e) – Duty to report
871 IAC 24.6(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant Melissa Benning appealed a decision issued by Iowa Workforce Development (“IWD”), dated May 9, 2013, reference 03, finding she was ineligible to receive unemployment insurance benefits as of May 5, 2013 because IWD mailed her a notice to report to attend a reemployment and eligibility assessment on May 7, 2013 and she failed to report.¹

¹ The Administrative Code Section set out in the Transmittal Slip in connection with this appeal, 871 IAC 24.2(1)(e), deals with the duty to report. The more specific issue set out in the Notice of Telephone Hearing (and litigated by implicit agreement) is whether the Appellant showed justifiable cause for failing to participate in the reemployment services session as set out in 871 IAC 24.6(6)(a).

On May 23, 2013, IWD transmitted the administrative file to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the file, it mailed a copy of the administrative file to Benning.

On July 11, 2013, a contested case hearing was held before Administrative Law Judge Ann E. Brenden. Angela Peterson appeared and testified on behalf of IWD. Exhibits 1 and 2 were admitted into the record. Benning did not appear within five minutes after the time set for hearing so the hearing was conducted in her absence. Her letter of appeal was admitted as Exhibit 1, but she did not testify in person under oath.

ISSUE

Whether IWD correctly determined that the claimant did not establish justifiable cause for failing to participate in reemployment services.

FINDINGS OF FACT

IWD selected Benning to participate in its reemployment services program. IWD mailed Benning a notice to report for a reemployment and eligibility assessment on May 7, 2013. (Peterson testimony). Benning did not attend the May 7, 2013 reemployment and eligibility assessment.² Benning also did not attend the administrative hearing, so she did not testify under oath. In her letter of appeal, Benning claimed that she had trouble finding rides because she no longer has a vehicle. (Exhibit 1).

REASONING AND CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.³ Reemployment services may include: (1) an assessment of the claimant's aptitude, work history, and interest; (2) employment counseling; (3) job search and placement assistance; (4) labor market information; (5) job search workshops or job clubs and referrals to employers; (6) resume preparation; and (7) other similar services.⁴

A claimant is required to participate in reemployment services when referred by IWD, unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed the training or services.⁵ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁶ "Justifiable cause for failure to participate is an important and significant reason which a reasonable person would

² By the time of hearing, Benning had been rescheduled for the next meeting on May 28, 2013, after which her claim was unlocked. (Peterson testimony).

³ 871 IAC 24.6(1).

⁴ *Id.* 24.6(3).

⁵ *Id.* 24.6(6).

⁶ *Id.*

consider adequate justification in view of the paramount importance of reemployment to the claimant.”⁷

Benning did not attend the reemployment and eligibility assessment on May 7, 2013. She did not appear and testify at the hearing. Her letter of appeal makes vague reference to ongoing transportation challenges but it falls short of establishing justifiable cause for missing the appointment. IWD’s decision should be affirmed.

DECISION

IWD correctly determined Benning did not establish justifiable cause for failing to participate in reemployment services, and its decision dated May 9, 2013, reference O3, is **AFFIRMED**.

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⁷ *Id.* 24.6(6)a.