

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

Appeal Number: 11IWDUI266
OC: 12/21/2008
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

DAVID HART
17685 GLIDER ROAD
FARMERBURG, IA 52037-8029

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT
430 EAST GRAND AVENUE
DES MOINES, IA 50319-0209

JOE WALSH, 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)

November 29, 2011

(Decision Dated & Mailed)

871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant David Hart filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated September 9, 2011, reference 06. IWD found Hart failed to participate in reemployment services and was ineligible to receive unemployment insurance benefits from August 28, 2011 and continuing until he participated in reemployment services.

IWD transmitted the case to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the administrative file to Hart.

A contested case hearing was scheduled for November 29, 2011. Hart did not attend the hearing. Hart's copy of the Notice of Telephone Hearing was not returned to my office as undeliverable mail. The Notice of Telephone Hearing provided instructions on how to participate in the hearing. Heather Loomis followed the instructions on the Notice of Telephone Hearing and appeared and testified on behalf of IWD. Exhibits 1 through 7 were admitted into the record.

ISSUE

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

FINDINGS OF FACT

IWD scheduled an appointment for Hart to attend reemployment services on July 21, 2011. Hart did not appear or call IWD before his July 21, 2011 appointment. IWD sent Hart a Reschedule Notice to Report to attend reemployment services on August 3, 2011. Hart called IWD and reported he had a job interview scheduled that day and would not be able to attend. IWD locked Hart's claim for one week and scheduled a fact-finding interview for September 1, 2011. IWD mailed the appointment notice on August 12, 2011.

Prior to the August 12, 2011 appointment, Hart contacted IWD and informed IWD he was starting a new job on September 6, 2011 and would not be attending the appointment on September 1, 2011. IWD issued a decision locking Hart's unemployment benefits until he attended reemployment services.

In his appeal letter Hart reported the decision, reference 06, does not have a date of the reemployment services he missed. The Department's Exhibits, copies of which were sent to Hart set forth the dates he failed to attend reemployment services. Hart further argued on the first occasion his vehicle broke down, the second occasion he had a job interview, and the third time he was called back to his former employer and started back on September 6, 2011. Loomis testified the third appointment was for September 1, 2011.

REASONING AND CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.¹ 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.²

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

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.³ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁴ “Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant.”⁵

The record reflects Hart failed to attend reemployment services. Hart did not attend the hearing to explain, under oath, his reasons for failing to participate in reemployment services. Hart provided no justification for his failure to attend the September 1, 2011 appointment. His appeal letter indicates he was recalled to work on September 6, 2011. Hart has not provided justifiable cause for failing to attend reemployment services. IWD’s decision should be affirmed.

DECISION

IWD correctly determined Hart did not establish justifiable cause for failing to participate in reemployment services, and its decision dated September 9, 2011 is affirmed.

hlp

³ *Id.* 24.6(6).

⁴ *Id.*

⁵ *Id.* 24.6(6)a.