

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

KENNETH GJERSVIK
1338 – 155TH STREET
CLEMONS IA 50051

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
SHANLYN SEIVERT & RUTH GILGEN

JOE WALSH, IWD

Appeal Number: 12IWDUI043
OC: 4/29/12
Claimant: Appellant (2)

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)

March 8, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Kenneth Gjersvik filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 14, 2013, reference 01. In this decision, the Department determined that Mr. Gjersvik was ineligible to receive unemployment insurance benefits effective January 6, 2013 because he failed to report for a reemployment and eligibility assessment on January 8, 2013.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on January 25, 2013. On March 7, 2013, a telephone appeal hearing was held before Administrative Law Judge John Priester. Appellant Kenneth Gjersvik appeared and presented testimony. No representative from the Department appeared to participate in the hearing.

ISSUE

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

FINDINGS OF FACT

Kenneth Gjersvik filed a claim for unemployment insurance benefits with an effective date of April 29, 2012. On January 14, 2013, the Department issued a decision disqualifying Mr. Gjersvik from receiving unemployment insurance benefits effective January 6, 2013 because of an alleged failure to report for a reemployment and eligibility assessment on January 8, 2013. Mr. Gjersvik appealed the Department's decision disqualifying him from receiving benefits.

Mr. Gjersvik explained in his appeal letter that he had been extremely sick in January and was unable to attend the session.

REASONING AND CONCLUSIONS OF LAW

Iowa Workforce Development and the Iowa Department of Economic Development provide a program that offers reemployment services to individuals receiving unemployment insurance benefits. The services offered include aptitude assessments, employment counseling, job searching assistance, and resume preparation, among other things. Once the Department selects an individual for reemployment services, that individual must participate in those services unless he or she establishes justifiable cause for failure to participate or has previously completed such training. Justifiable cause 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." Failure to participate without justifiable cause disqualifies an individual from receiving benefits until he or she participates in the reemployment services.¹

The evidence in this case demonstrates that Mr. Gjersvik was ill and unable to attend the session. Under these circumstances, the Department's decision to disqualify Mr. Gjersvik for unemployment insurance benefits effective January 6, 2013 was incorrect.

DECISION

Iowa Workforce Development's decision dated January 14, 2013, reference 01, is **REVERSED**. The Department shall take prompt steps to issue benefits to Kenneth Gjersvik retroactive to the date of disqualification, provided he was otherwise eligible. The Department shall take any additional action necessary to implement this decision.

jmp

¹ 871 Iowa Administrative Code (IAC) 24.6.