

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

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**MICHAEL L. SMITH**  
**28465 – 130<sup>th</sup> AVENUE**  
**DONAHUE, IA 52729**

**IOWA WORKFORCE DEVELOPMENT  
REEMPLOYMENT SERVICES  
COORDIANATOR  
SHANLYN SEIVERT  
430 EAST GRAND AVENUE  
DES MOINES IA 50319-0209**

JOE WALSH, IWD

**Appeal Number: 11IWDUI230**  
**OC: 04/24/11**  
**Claimant: Appellant (1)**

**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 written 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.

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(Administrative Law Judge)

September 29, 2011

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(Dated and Mailed)

871 IAC 24.6(6)

STATEMENT OF THE CASE:

Appellant Michael Smith filed this appeal from a decision entered by Iowa Workforce Development (IWD) on July 14, 2011, reference 03, holding that he was ineligible for unemployment insurance benefits from July 10, 2011 through July 16, 2011 because he failed to provide justifiable cause for failing to participate in Reemployment Services.

Mr. Smith's appeal was forwarded to the Department of Inspections and Appeals Administrative Hearings Division on September 2, 2011. Hearing was set for September 29, 2011, and notice of said hearing was provided to all parties. At the time scheduled for hearing, Mr. Smith did not appear despite notice of hearing sent to his address of record, which was the same address listed on his appeal letter. The documents contained in the administrative file comprise the record. The Administrative Procedures Act, Iowa Code 17A.12(3), provides that a presiding officer may, upon a party's failure to appear, either enter a default or proceed with the hearing in the party's absence.

FINDINGS OF FACT:

Michael Smith filed a claim for unemployment benefits effective April 24, 2011. Mr. Smith was selected by Iowa Workforce Development to be referred to Reemployment Services. IWD sent Mr. Smith a letter informing him of the Reemployment Services Program and notifying him that he was required to appear.

Mr. Smith did not appear for the scheduled orientation and assessment session. At this time, IWD automatically sent another letter to Mr. Smith rescheduling reemployment services. Again he did not attend the rescheduled session.

On July 13, 2011, IWD mailed a Notice to Report to Mr. Smith scheduling an interview for July 21, 2011. Like the previous mailings, this notice warned that failure to report could result in disqualification of benefits. The record did not include information regarding this interview.

On July 14, 2011, IWD issued its decision denying unemployment benefits for the period from July 10, 2011, through July 16, 2011, based on a Mr. Smith's failure to establish justifiable cause for failing to participate in the Reemployment Services Program.

Mr. Smith sent a letter regarding his appeal from the decision denying benefits which explained his inability to participate due to an incident at the time that he reported for reemployment services on August 11, 2011. This date occurred after the decision under appeal, and therefore did not present any cause for the two failures to participate that formed the basis for the decision. Mr. Smith did not appear for the hearing to explain further.

REASONING AND CONCLUSIONS OF LAW:

Iowa Workforce Development and the Iowa Department of Economic Development have teamed up to provide a program offering reemployment services to individuals who have been profiled as permanently separated from employment and most likely to exhaust unemployment benefits. 871 IAC 24.6(1), (2). The program includes assessments of aptitude, work history and interests, employment counseling, job search and job placement assistance, labor market information, workshops, resume preparation and related services. 871 IAC 24.6(3)(a)-(g). Once referred to the program, an individual must participate in services unless he or she has justifiable cause for failing to. 871 IAC 24.6(6). "Justifiable cause" is defined by the department's rules as "an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant." 871 IAC 24.6(6)(a). Failure to participate in the Reemployment Services Program without justifiable cause disqualifies an individual from receiving unemployment benefits until such time as he or she begins to participate. 871 IAC 24.6.

Here, the record shows that Mr. Smith was scheduled to attend an orientation and assessment session on two occasions but failed to appear. Although he claimed cause to explain his failure to participate on August 11, 2011, the decision under appeal issued on July 14, 2011. The record contains no evidence to establish justifiable cause for his two failures to participate in reemployment services that caused the decision to issue. The department's decision denying benefits must be upheld.

DECISION:

Iowa Workforce Development's decision dated July 14, 2011, reference 03, holding Michael Smith ineligible to receive unemployment benefits from July 10, 2011, through July 16, 2011, is AFFIRMED. The department shall take any steps necessary to implement its decision.

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