

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

Appeal Number: 13IWDUI450
OC: 7/21/13
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.

DECISION OF THE ADMINISTRATIVE LAW JUDGE

STEVEN CARTER
1803 70TH STREET
WINDSOR HEIGHTS, IA 50324

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
SUE BARTON

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.

TERESA HILLARY, IWD

(Administrative Law Judge)

October 28, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Steven Carter filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated September 11, 2013 (reference 01). In this decision, the Department determined that Carter was ineligible to receive unemployment insurance benefits effective September 8, 2013 because he failed to participate in a reemployment services orientation.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on September 24, 2013 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on October 2, 2013. On October 25, 2013, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Workforce advisor Sue Barton represented the Department and presented

testimony. Exhibits A through E were submitted by the Department and admitted into the record as evidence. Appellant Steven Carter appeared and presented testimony.

ISSUE

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

FINDINGS OF FACT

Steven Carter filed a claim for unemployment insurance benefits with an effective date of July 21, 2013. On August 26, 2013, the Department mailed Carter a Reemployment Services Program Notice to Report requiring that he attend a reemployment services orientation on September 9, 2013 at 9:00 AM. (Exh. B).

Carter was out of town from September 2 through September 9, 2013. Carter did not receive the notice prior to leaving on September 2. He arrived home late on September 9 and opened the notice with all of the other mail that had accumulated during his trip on the morning of September 10. Consequently, Carter did not attend the reemployment services orientation on September 9. (Carter testimony; Exh. C).

On September 11, 2013, the Department issued a decision disqualifying Carter from receiving unemployment insurance benefits effective September 8, 2013 because of his failure to report for the September 9 orientation. Carter appealed the decision, asserting that he was out of town on September 9 and had not received the notice prior to his trip. (Exh. E).

Prior to being laid off from his position with the Iowa Department of Human Services earlier this year, Carter had been employed in Colorado. His trip to Colorado from September 2 through September 9 was related to his job searching activities; Carter reconnected with some people with whom he worked while in Colorado in an attempt to network regarding job opportunities. While Carter did not have any official interviews in Colorado, he met and talked with representatives of a contractor that he was acquainted with while he worked at DHS. He logged his job contacts on the job search log that he is required to keep for the Department. (Carter testimony).

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

I found Carter’s testimony regarding when he received the Department’s notice and the purpose of his trip to Colorado credible. Carter did not receive the notice until after he left for his job hunting trip to Colorado. Failure to appear at a reemployment services orientation because of a previously scheduled out-of-town job trip constitutes justifiable cause. The Department’s decision must be reversed.

DECISION

Iowa Workforce Development’s decision dated September 11, 2013, reference 01, is REVERSED. The Department shall take prompt steps to issue benefits to Steven Carter back to the date of disqualification, provided he was otherwise eligible. The Department shall take any additional action necessary to implement this decision.

¹ 871 Iowa Administrative Code (IAC) 24.6.