

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

Appeal Number: 11IWDUI144
OC: 6/6/10
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

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.**

RENAE L. JOHNSON
2840 W. 4th STREET
WATERLOO, IA 50701-4055

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

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

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.

JOE WALSH, IWD

(Administrative Law Judge)

July 27, 2011

(Decision Dated & Mailed)

871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant Renae Johnson appealed from a decision issued by Iowa Workforce Development (“IWD”) dated April 1, 2011, reference 02, which determined that Ms. Johnson was not eligible to receive unemployment insurance benefits from March 27, 2011 through April 9, 2011, because she failed to provide justifiable cause for failing to participate in reemployment services.

IWD transmitted the cases to the Department of Inspections and Appeals on June 10, 2011, to schedule a contested case hearing. A Notice of Telephone Hearing was issued on June 15, 2011, scheduling a hearing for July 27, 2011.

On July 27, 2011, this matter proceeded to a hearing. Claimant Renae Johnson did not appear despite notice of hearing sent to her address of record, which is the same address listed on her appeal letter and the same address that appears on the decision under appeal. The notice sent to the appellant has not been returned in the mail as undelivered. Debra Hodges Harmon appeared and testified on behalf of IWD. Exhibits 1 through 4 entered the record.

ISSUES

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

FINDINGS OF FACT

Ms. Johnson was notified in writing noticed to attend reemployment services on March 9, 2011. She did not attend. IWD sent Ms. Fanning a second notice to attend reemployment services on March 21, 2011. She did not attend. Both of the notices sent to Ms. Johnson contained language advising her that failure to attend could result in disqualification from benefits. (Exhibit 3; Harmon testimony).

IWD issued a decision finding Ms. Johnson was ineligible to receive unemployment insurance benefits from March 27, 2011 through April 9, 2011 because she had not established justifiable cause for failing to participate in reemployment services. (Exhibit 2).

Ms. Johnson did not appear for the hearing. Her appeal letter stated that she incorrectly remembered the starting time for the March 21, 2011, reemployment training. By the time that she realized her mistake, it was too late to attend the session. The letter did not speak to the March 9, 2011, training. (Exhibit 1).

REASONING AND CONCLUSIONS OF LAW

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.

IWD and the Department of Economic Development jointly provide a reemployment services program. 871 IAC 24.6(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. 871 IAC 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. 871 IAC 24.6(6). Failure by the

claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services. "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." 871 IAC 24.6(6)(a).

The record established that Ms. Johnson failed to attend reemployment services on two occasions. The record did not contain evidence of good cause for her failure to attend. The circumstances described in her letter do not constitute justifiable cause as defined in 871 IAC 24.6(6)(a), and the letter failed to address one of the failures to attend. The IWD decision must be affirmed.

DECISION

IWD's decision dated April 1, 2011, reference 02, finding the appellant ineligible to receive unemployment insurance benefits from March 27, 2011, through April 9, 2011, because she failed to establish justifiable cause for her failure to participate in reemployment services is **AFFIRMED**.

rhw