

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

SUSAN KELLIS
370 NW 51ST PLACE
DES MOINES, IA 50313-0209

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

DAN ANDERSON, IWD

Appeal Number: 10IWDUI302
OC: 01/24/10
Claimant: Appellant (1)

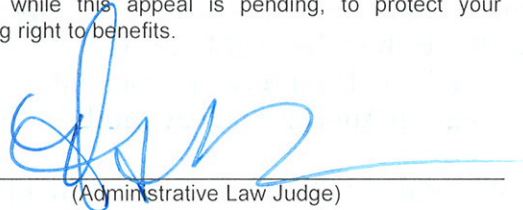
This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, 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, 2010

(Decision Dated & Mailed)

871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant Susan Kellis filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated September 8, 2010, reference 05, finding she had failed to participate in reemployment services as required, and that she was ineligible to receive unemployment insurance benefits from September 7, 2010 until she reported to IWD for reemployment services. Kellis appealed.

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 Kellis.

On November 24, 2010, a contested case hearing was held before Administrative Law Judge Heather L. Palmer. Kellis appeared and testified. Kimberly Wilhelm appeared and testified on behalf of IWD. Exhibits 1 through 6 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

Kellis was scheduled to attend reemployment services on May 5, 2010, but did not attend. IWD sent Kellis a letter stating Kellis had failed to attend her appointment on May 5, 2010, and scheduling a second appointment for May 17, 2010. Kellis testified she was not receiving unemployment insurance benefits at that time. Kellis reported she called IWD and spoke with a man who told her she did not need to appear.

Kellis reapplied for unemployment insurance benefits on May 12, 2010. Kellis did not attend the May 17, 2010 appointment.

IWD sent Kellis a letter to appear by telephone on August 23, 2010, and noting she had failed to attend reemployment services. Kellis appeared by telephone on August 23, 2010. Kellis agreed to attend an appointment at IWD on September 7, 2010. Wilhelm testified she informed Kellis that if she failed to attend the appointment, she would be disqualified from receiving benefits. IWD sent Kellis a letter stating she had failed to appear on August 23, 2010, and confirming the September 7, 2010 appointment.

Kellis did not attend the appointment scheduled for September 7, 2010. She called IWD and reported she had injured her back the day before. Kellis did not seek medical treatment for her back injury.

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

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

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

³ *Id.* 24.6(6).

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 Kellis failed to attend reemployment services. Kellis testified she did not attend the appointment on September 7, 2010 because she injured her back the previous day. Kellis did not seek medical treatment for the injury. Kellis reported she has been hospitalized for the condition twice before. I conclude Kellis failed to present justifiable cause for failing to participate in reemployment services.

DECISION

IWD’s decision dated September 8, 2010, reference 05, is affirmed.

hlp

⁴ *Id.*

⁵ *Id.* 24.6(6)a.

