

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**GWEN A. GARMS**  
**145 HAWTHORNE AVENUE**  
**WATERLOO, IA 50702-3632**

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

JOE WALSH, IWD  
SRDJAN GOLUB, IWD

**Appeal Number: 13IWDUI130**  
**OC: 6/24/12**  
**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, 4<sup>TH</sup> 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)

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April 29, 2013

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(Decision Dated & Mailed)

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871 IAC 24.26(6) – Reemployment Services

**STATEMENT OF THE CASE**

Claimant Gwen Garms appealed from a decision issued by Iowa Workforce Development (“IWD”) dated February 27, 2013, reference 03, in which IWD determined Ms. Garms was not eligible to receive unemployment insurance benefits as of February 24, 2013, because she failed to provide justifiable cause for failing to participate in reemployment services.

IWD transmitted the case to the Department of Inspections and Appeals on March 13, 2013, to schedule a contested case hearing. A Notice of Telephone Hearing was issued on March 15, 2013, scheduling a hearing for April 26, 2013.

On April 26, 2013, this appeal proceeded to a hearing before Administrative Law Judge Robert H. Wheeler. The respondent, IWD, participated by submission of the administrative file and an appeal summary with supporting exhibits A – H. These documents entered the record without objection. Claimant Gwen Garms failed to appear despite notice sent to her address of record, which is the same address to which the decision at issue was sent.

### **ISSUES**

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

### **FINDINGS OF FACT**

IWD sent Ms. Garms a written notice directing her to attend reemployment services on February 26, 2013. She did not attend and did not call to explain her absence. On March 6, 2013, Ms. Garms called to reschedule the appointment, but left a wrong telephone number and could not be reached. (Exhibits A, F, G).

On February 27, 2013, IWD issued a decision finding Ms. Garms was ineligible to receive unemployment insurance benefits as of February 24, 2013, because she had not established justifiable cause for failing to participate in reemployment services. This appeal followed in a timely manner. (administrative file).

Ms. Garms did not appear for the hearing and did not testify. Her appeal letter did not dispute her failure to appear for reemployment services on February 26, 2013. Although the letter alleged an illness and attempts to call to re-schedule, IWD records demonstrate that only one call occurred and Ms. Garms left an incorrect telephone number. (administrative file; Exhibits F, G, H).

### **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. Garms failed to attend reemployment services. The record did not contain any evidence of good cause for her failure to attend. These circumstances do not constitute justifiable cause as defined in 871 IAC 24.6(6)(a), and the IWD decision must be affirmed.

#### **DECISION**

IWD's decision dated February 27, 2013, reference 03, denying eligibility for unemployment insurance benefits because the claimant failed to establish justifiable cause for failure to attend reemployment services, is affirmed.

rhw