

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

**Appeal Number: 15IWDUI068**  
**OC: 01/04/2015**  
**Claimant: Appellant (2)**

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, 4<sup>TH</sup> Floor Lucas Building, Des Moines, Iowa 50319.**

**NANCY HANSON**  
**22662 275 ST**  
**MASON CITY, IA 50401**

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

**IWD REEMPLOYMENT SERVICES**  
**ADVISOR & COORDINATOR**  
**LARRY FABER & LORI ADAMS**

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.

JONI BENSON, IWD  
NICHOLAS OLIVENCIA, IWD

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)

**April 29, 2015**

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(Decision Dated & Mailed)

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871 Iowa Administrative Code 26.14(6)-(7) – Failure to Appear  
871 IAC 24.6(6) – Reemployment Services

### **STATEMENT OF THE CASE**

Claimant Nancy Hanson filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated February 13, 2015 reference 01. IWD determined Hanson was not eligible to receive unemployment insurance benefits as of February 8, 2015 because she failed to report for a reemployment and eligibility assessment on February 10, 2015.

A contested case hearing was held by telephone on March 30, 2015. Hanson appeared

by telephone and testified. A representative from IWD did not appear on behalf of IWD. A "Notice to Report" dated January 27, 2015, a "Rescheduled Initial Notice" dated February 13, 2015, were included as part of the record. Hanson submitted an appeal request and a letter marked as Exhibit A into the record.

## **ISSUES**

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

## **FACTS**

On January 27, 2015 IWD scheduled Hanson to attend a reemployment and eligibility assessment on February 10, 2015 (Notice to Report 1-27-15). On February 13, 2015 IWD re-scheduled the appointment for March 4, 2015 (Re-scheduled Initial Notice 2-13-15). On February 13, 2015 IWD sent Hanson failed to attend, IWD notified her that she was ineligible for unemployment insurance benefits on February 8, 2015 and continuing until she reported for the assessment (Decision 2-13-15).

The Department did not participate in the telephone hearing on March 30, 2015. Hanson did participate in the telephone hearing. She was not able to testify exactly which benefits were at issue but stated that she believed it covered the periods from February 18, 2015 through March 16, 2015. She stated that she was gone during the time the letter was sent. She indicated that the Department should have made her aware in advance that a notice that affected her benefits would be mailed to her. She also included a letter marked as Exhibit A which illustrated the problems that she has in receiving mail at her address (Hanson Testimony).

## **CONCLUSIONS OF LAW**

The Iowa Administrative Procedure Act provides that if a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may enter a default decision.<sup>1</sup> Iowa Workforce Development (the Department) regulations give the presiding officer discretion regarding whether to proceed with a hearing in the absence of one or more of the parties.<sup>2</sup> In this case, the undersigned proceeded with a hearing on the merits of the case based on the documents in the file and the testimony of the claimant.

The Department presented no witnesses or documents supporting its decision that the claimant did not attend a reemployment assessment. The documents in the file indicate that the reemployment assessment Hanson allegedly missed was re-scheduled for another date. Hanson provided un rebutted testimony that she was not aware of the requirement to attend the appointment.

## **DECISION**

The Department's decision is reversed.

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<sup>1</sup> Iowa Code § 17A.12(3).

<sup>2</sup> 871 Iowa Administrative Code 26.14(6)-(7).