

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

Appeal Number: 13IWDUI463
OC: 7/28/13
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.**

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.

LARRY L. RANDALL
6443 N. BLACKHAWK BUCHANAN AVE
FAIRBANK, IA 50629

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.

JONI BENSON, IWD
VELMA SALLIS, IWD

(Administrative Law Judge)

October 25, 2013

(Decision Dated & Mailed)

871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant Larry RAndall appealed from a decision issued by Iowa Workforce Development (“IWD”) dated September 16, 2013, reference 03, in which IWD determined Mr. Randall was not eligible to receive unemployment insurance benefits as of September 8, 2013, because he failed to provide justifiable cause for failing to participate in reemployment services.

IWD transmitted the case to the Department of Inspections and Appeals on September 26, 2013, to schedule a contested case hearing. A Notice of Telephone Hearing was issued on October 2, 2013, scheduling a hearing for October 25, 2013.

On October 25, 2013, this appeal proceeded to a hearing before Administrative Law Judge Robert H. Wheeler. Velma Sallis appeared and testified for the respondent, IWD. The administrative file entered the record without objection. Claimant Larry Randall failed to appear despite notice sent to his address of record, which is the same address to which the decision at issue was sent and the return address on the appeal request. The notice of hearing was not returned as undelivered mail.

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 Mr. Randall a written notice on August 19, 2013, directing him to attend reemployment services on September 12, 2013. The notice clearly stated that Mr. Randall should call if he needed to reschedule or if he found work. He did not attend and did not call to explain his absence or reschedule the appointment. (administrative file; Sallis testimony).

On September 16, 2013, IWD issued a decision finding Mr. Randall was ineligible to receive unemployment insurance benefits as of September 8, 2013, because he had not established justifiable cause for failing to participate in reemployment services. This appeal followed in a timely manner. (administrative file; Sallis testimony).

Mr. Randall did not appear for the hearing and did not testify. His appeal letter did not dispute his failure to appear for reemployment services on September 12, 2013, and stated that he attended an orientation for a new job on that date. The letter did not explain his failure to call to reschedule the appointment. (administrative file; Sallis testimony).

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 Mr. Randall failed to attend reemployment services and did not call to reschedule the appointment or explain his absence. 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 September 16, 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