

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

ANDREW D. KING
2711 WASHINGTON STREET
DAVENPORT, IA 52804

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR
RONEE SLAGLE & DAVID HARTMAN

BRIAN ANSON, IWD
JONI BENSON, IWD
NICHOLAS OLIVENCIA, IWD
EMILY CHAFA, UI APPEALS MANAGER

Appeal Number: 15IWDUI353
OC: 9/13/15
Claimant: Appellant (2)

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 25, 2015

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Andrew King filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated October 16, 2015 (Reference 02, Exhibit 1). In this decision, the Department determined that King was ineligible to receive unemployment insurance benefits effective October 11, 2015, because he was mailed a notice to report for a reemployment and eligibility assessment on October 15, 2015 and he did not report.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on October 30, 2015 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on November 5, 2015. On November 25, 2015, a telephone appeal hearing was held before Administrative Law Judge Tricia A. Johnston. Brian Anson represented the Department and presented

testimony. Exhibits 1 and 2 were submitted by the Department and admitted into the record as evidence. Appellant Andrew King appeared and presented testimony.

ISSUES

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

FINDINGS OF FACT

Andrew King filed a claim for unemployment insurance benefits with an effective date of September 13, 2015. IWD representative Brian Anson testified that King was originally scheduled by the Department to attend a reemployment and eligibility assessment (REA) on October 15, 2015. Although this letter was not introduced into evidence, Mr. Anson testified that it was mailed on October 5, 2015 to Mr. King's current address. Mr. Anson was not the caseworker for Mr. King and was not involved in this process. Mr. King did not dispute the address was correct and he did indicate that he received the appointment letter. (Anson testimony; King testimony)

Anson did not attend the October 15, 2015 REA as scheduled. Mr. Anson testified that David Hartman, King's contact at the Department, told Anson that Mr. King had called in and left a message saying he could not attend and wanted to speak with him about rescheduling. Hartman informed Anson that he returned the call and got Mr. King's answering machine and left a voicemail. Hartman told Anson he had not heard from Mr. King since that time. Hartman did not inform Anson when Mr. King called him and Mr. Hartman was not present at hearing to provide that information. (Anson testimony)

Andrew King testified that he did not receive the scheduling letter until October 14, 2015, the day before the scheduled appointment. He stated he got it in the mailbox around 12 or 12:30 p.m. and immediately called and left a message for Mr. Hartman. King stated he left a message for Hartman on his voice mail saying that he was scheduled to do some charity work for the Optimist Club the next day and could not attend and that he wanted to reschedule that appointment. Mr. King stated he did not receive a call back from Mr. Hartman. I found Mr. King's testimony regarding his receipt of the letter and his attempt to contact Mr. Hartman prior to the appointment to be credible.

REASONING AND CONCLUSIONS OF LAW

Iowa Workforce Development and the Iowa Department of Economic Development provide a program that offers reemployment services to individuals receiving unemployment insurance benefits. The services offered include aptitude assessments, employment counseling, job searching assistance, and resume preparation, among other things. Once the Department selects an individual for reemployment services, that individual must participate in those services unless he or she establishes justifiable cause for failure to participate or has previously completed such training. Justifiable cause 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.” Failure to participate without justifiable cause disqualifies an individual from receiving benefits until he or she participates in the reemployment services.¹

I find King’s statement that he did not receive the letter until the day before the appointment to be credible. Likewise I believe Mr. King’s statement that he called Mr. Hartman the day prior to the scheduled appointment to reschedule that appointment.

The Department regularly reschedules a first appointment with no negative consequences to the claimant. Had this been done in Mr. King’s case, he would not have been locked from receiving unemployment benefits. As noted, Mr. Hartman was not present to contradict Mr. King’s recollection of when he placed this phone call attempting to reschedule the appointment, nor was there any other evidence provided by the Department that would have refuted Mr. King’s statements.

I find Mr. King had good cause for missing the appointment and making the appropriate efforts to reschedule it prior to the missed appointment. The Department’s decision disqualifying him from receiving benefits from October 11, 2015 to the present must be reversed.

DECISION

Iowa Workforce Development’s decision dated October 16, 2015 (reference 02) is REVERSED. The Department shall take any action necessary to implement this decision.

taj

¹ 871 Iowa Administrative Code (IAC) 24.6.