

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

Appeal Number: 12IWDUI136

OC: 12/11/11

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, 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.

**MITCHELL L. NOEL
311 E. WOOD STREET
POLK CITY IA 50226-2235**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT
SUE BARTON
REEMP. SERVICES COORDINATOR
430 EAST GRAND AVE.
DES MOINES, IA 50309**

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.

JOE WALSH, IWD

(Administrative Law Judge)

April 19, 2012

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Mitchell L. Noel filed an appeal from a decision issued by Iowa Workforce Development (the Department). In the decision dated January 27, 2012, reference 02, the Department determined that Mr. Noel was ineligible to receive unemployment insurance benefits from January 22, 2012 because he did not establish justifiable cause for failing to participate in reemployment services.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on March 23, 2012 to schedule a contested case hearing. The telephone hearing was held on April 10, 2012 before Administrative Law Judge John M. Priester. Workforce advisor Theresa Glick represented the Department and presented testimony. Appellant Mitchell Noel appeared and presented testimony. The administrative file was admitted into the record as evidence.

ISSUE

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

FINDINGS OF FACT

Mitchell Noel filed a claim for unemployment insurance benefits with an effective date of December 11, 2011. At some point, the Department mailed Mr. Noel a notice that informed him that he was required to participate in a reemployment services training on January 23, 2012. Mr. Noel did not attend the January 23rd training.

Mr. Noel had a counseling session scheduled for January 23, 2012 along with an interview at Push, Pedal and Pull. He did fail to contact the Department to inform them that he was not going to be able to attend the reemployment services session. Mr. Noel accepted a full time position on February 6, 2012.

The Department notified Mr. Noel that his benefits were going to be denied based upon his failure to attend the RES session on January 23, 2012. Mr. Noel filed a timely appeal.

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

The only issue remaining in this case is whether the Department correctly denied benefits to Mr. Noel because of a failure to participate in reemployment services training.

Mr. Noel’s testimony is found to be credible that he was schedule to attend an interview on the date of his RES session. Additionally he was attending counseling with a pastor. An active search for employment in a place where employment might reasonably be found constitutes justifiable cause for failure to participate in reemployment services. Accordingly, the Department’s decision to deny Mr. Noel unemployment insurance benefits is incorrect and must be reversed.

¹ 871 Iowa Administrative Code (IAC) 24.6.

DECISION

Iowa Workforce Development's decision dated January 27, 2012, reference 02, is REVERSED. The Department shall take prompt steps to issue benefits to Mr. Noel for the weeks provided he was otherwise eligible. The Department shall take any further action necessary to implement this decision.

jmp