

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

MARIO DAVENPORT
394 17TH STREET APT. A
CEDAR RAPIDS, IA 52403

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & JIM O'HARE

Joni Benson, IWD

Appeal Number: 13IWDUI025

OC: 07/29/12

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, 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)

March 15, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Claimant/Appellant Mario Davenport appealed a decision issued by Iowa Workforce Development ("IWD"), dated January 2, 2013, reference 01, finding Davenport was mailed a notice to report for a reemployment and eligibility assessment on December 28, 2012 and since he did not report benefits were denied as of December 23, 2012.

On January 15, 2013, IWD transmitted the administrative file to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the file, it mailed a copy of the administrative file to Davenport. On January 24, 2013, the Department of Inspections and Appeals sent out a Notice of Telephone Hearing, scheduling a contested case hearing for March 13, 2013.

On March 13, 2013, a contested case hearing was held before Administrative Law Judge Emily Kimes-Schwiesow. Davenport did not appear as directed by the Notice of Telephone Hearing. James O'Hare appeared and testified on behalf of IWD. Exhibits 1 through 3 were admitted into the record.

ISSUE

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

FINDINGS OF FACT

IWD scheduled Davenport to attend a reemployment and eligibility assessment on December 28, 2013. O'Hare testified Davenport did not attend the appointment and did not call IWD before the appointment to reschedule. IWD issued a decision dated January 2, 2013, reference 01, finding Davenport was mailed a notice to report for reemployment and eligibility assessment on December 28, 2012 and since he did not report benefits were denied as of December 23, 2012. Davenport appealed.

According to his appeal letter, Davenport didn't receive the notice. O'Hare confirmed at hearing that the address listed on Davenport's appeal letter was not the address IWD had for him. However, Davenport did receive the January 2, 2013 decision from which he filed a timely appeal. O'Hare testified that IWD requires claimants to keep them updated as to any address changes.

REASONING AND CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.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.²

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.³ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁴ "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."⁵

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

³ *Id.* 24.6(6).

⁴ *Id.*

⁵ *Id.* 24.6(6)a.

Davenport did not attend a reemployment and eligibility assessment on December 28, 2012. Davenport denied receiving the notice, but clearly did receive the January 2, 2013 decision. No further explanation has been provided by Davenport. IWD's decision should be affirmed.

DECISION

IWD correctly determined Davenport did not establish justifiable cause for failing to participate in reemployment services, and its decision dated January 2, 2013, reference 01, is AFFIRMED.

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