

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

Appeal Number: 13IWDUI498
OC: 2/24/13
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.**

JODY GIESE
5295 L ROAD
NEBRASKA CITY, NE 68410-6871

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

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
MARIA CORTEZ, IWD

(Administrative Law Judge)

November 25, 2013

(Decision Dated & Mailed)

871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant Jody Giese appealed from a decision issued by Iowa Workforce Development (“IWD”) dated October 2, 2013, reference 01, which determined that he was not eligible to receive unemployment insurance benefits as of September 22, 2013, because he failed to provide justifiable cause for failing to participate in reemployment services.

IWD transmitted the cases to the Department of Inspections and Appeals on October 14, 2013, to schedule a contested case hearing. A Notice of Telephone Hearing was issued on November 1, 2013, scheduling a hearing for November 25, 2013.

On November 25, 2013, this matter proceeded to a hearing before Administrative Law Judge Robert H. Wheeler. Claimant Jody Giese appeared pro se and testified. Maria Cortez appeared and testified on behalf of IWD. Documents 1 through 4 entered the record without objection.

ISSUES

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

FINDINGS OF FACT

On September 13, 2013, IWD sent Mr. Giese notice to attend reemployment services on September 26, 2013. He did not attend. IWD records indicated that Mr. Giese did not show up for the appointment and did not call to reschedule. (Exhibits 2, 3; Cortez testimony).

On October 2, 2013, IWD issued a decision finding Mr. Giese was ineligible to receive unemployment insurance benefits as of September 22, 2013, because he had not established justifiable cause for failing to participate in reemployment services. (Exhibit 1).

Mr. Giese testified that he could not afford to remain at the address in Malvern, Iowa, shown on the notice to report. He established a temporary address in Red Oak, Iowa, and notified IWD by calling his worker, Nancy Burkhart. Shortly thereafter, Mr. Giese found employment in Nebraska, and on the weekend following September 1, 2013, he moved to Nebraska and notified IWD again by calling Nancy Burkhart. Mr. Giese never received the notice of the reemployment services appointment. (Giese testimony).

REASONING AND CONCLUSIONS OF LAW

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. Giese failed to attend reemployment services. The record did, however, contain evidence of good cause for his failure to attend. A reasonable person would consider lack of notice to be good cause. Mr. Giese credibly described his address changes and the fact that he notified IWD as they occurred. His last address change occurred prior to the issuance of the notice to report, but the notice went to his old address, nonetheless. These circumstances do constitute justifiable cause as defined in 871 IAC 24.6(6)(a), and the IWD decision must be reversed.

DECISION

IWD's decision dated October 2, 2013, reference 01, finding Jody Giese ineligible for unemployment insurance benefits as of September 22, 2013, is REVERSED.

rhw