

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

AURELIA ELLIS
1551 BLUFF ST APT 3
DUBUQUE, IA 52001

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & AURELIA ELLIS

JOE WALSH, IWD
JONI BENSON, IWD

Appeal Number: 13IWDUI059
OC: 11/11/12
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)

871 IAC chapter 24 – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant Aurelia Ellis appealed a decision issued by Iowa Workforce Development (“IWD”), dated January 17, 2013, reference 02, finding she was ineligible to receive unemployment insurance benefits as of January 13, 2013 because she was mailed a notice to report to attend a reemployment and eligibility assessment on January 14, 2013, and she failed to appear.

On January 30, 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 Ellis. On February 5, 2013, the Department of Inspections and Appeals sent out a Notice of Telephone Hearing, scheduling a contested case hearing for March 14, 2013.

On March 14, 2013, a contested case hearing was held before Administrative Law Judge Heather L. Palmer. Ellis did not appear as directed by the Notice of Telephone Hearing. Charlotte Miller appeared and testified on behalf of IWD. Exhibits 1 through 5 were admitted into the record.

ISSUE

Whether the Department correctly determined the claimant is ineligible to receive unemployment insurance benefits.¹

FINDINGS OF FACT

IWD selected Ellis to participate in its reemployment services program. IWD sent Ellis a Notice to Report to attend a reemployment and eligibility assessment on January 14, 2013. Ellis did not attend the appointment and did not contact IWD before the appointment to state she could not attend the appointment.

IWD issued the decision, dated January 17, 2013, reference 02, finding Ellis was ineligible to receive unemployment insurance benefits as of January 13, 2013 because she was mailed a notice to report to attend a reemployment and eligibility assessment on January 14, 2013, and she failed to appear. Ellis appealed the decision on January 22, 2013. In her appeal letter Ellis stated she did not attend the appointment because she was working.

Ellis did not attend the hearing to testify under oath that she was working or supply any documents from her employer showing she was working.

REASONING AND CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.² 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.³

In order to maintain continuing eligibility for benefits, an individual is required to report to IWD as directed.⁴ Specifically, 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

¹ IWD certified the second issue whether the Department correctly determined the Claimant failed to meet the availability requirements by failing to report to quality control. That was not the issue presented at hearing. Miller agreed that issue should not have been certified for hearing.

² 871 IAC 24.6(1).

³ *Id.* 24.6(3).

⁴ *Id.* 24.2(1)e.

training or services.⁵ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁶ “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.”⁷

Ellis could have contacted IWD to report she was working before her January 14, 2013 appointment. IWD first learned Ellis was working when Ellis submitted her appeal letter. Ellis did not attend the hearing to testify under oath that she was working or provide any documents from her employer showing she was working on January 14, 2013. She has not established justifiable cause for failing to participate in reemployment services. IWD’s decision should be affirmed.

DECISION

IWD correctly determined Ellis did not establish justifiable cause for failing to participate in a reemployment and eligibility assessment on January 14, 2013, and its decision dated January 17, 2013, reference 02, is AFFIRMED.

hlp

⁵ *Id.* 24.6(6).

⁶ *Id.*

⁷ *Id.* 24.6(6) *a.*