

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

Appeal Number: 12IWDUI657
OC: 03/04/12
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.

DECISION OF THE ADMINISTRATIVE LAW JUDGE

PETER G. GAI
4324 WESTBROOK DRIVE, UNIT 17
AMES IA 50014

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
LILLIE SIMPSON

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)

January 29, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Peter G. Gai filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated November 13, 2012, reference 03. In this decision, the Department determined that Mr. Gai was ineligible to receive unemployment insurance benefits effective November 4, 2012 because he failed to report for a quality control interview.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on December 11, 2012 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on December 19, 2012. On January 28, 2013 at 3:00 p.m., a telephone appeal hearing was held before Administrative Law Judge John M. Priester. Appellant Peter Gai appeared and presented testimony. The administrative file was admitted into the record as evidence. No representative from the Department appeared to participate in the hearing.

ISSUE

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

FINDINGS OF FACT

Peter G. Gai filed a claim for unemployment insurance benefits with an effective date of March 4, 2012. On November 13, 2012, the Department issued a decision disqualifying Mr. Gai from receiving unemployment insurance benefits effective November 4, 2012 because of an alleged failure to report for a quality control interview on November 8, 2012. Mr. Gai never received any notice from the Department scheduling him to attend the interview. There is no notice in evidence in this 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 evidence in this case demonstrates that Mr. Gai did not receive notice of the November 8, 2012 quality control interview. His failure to attend was a direct result of his failure to receive notice. Failure to receive notice of the quality control interview certainly constitutes justifiable cause for failing to attend. Under these circumstances, the Department’s decision to disqualify Mr. Gai for unemployment insurance benefits effective November 4, 2012 was incorrect.

DECISION

The Department’s decision dated November 13, 2012 is **REVERSED**. The Department shall take immediate steps to issue benefits to Mr. Gai retroactive to November 4, 2012, provided he was otherwise eligible. The Department shall also take any additional action necessary to implement this decision.

jmp

¹ 871 Iowa Administrative Code (IAC) 24.6.