

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

Appeal Number: 12IWDUI094
OC: 11/13/11
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.**

WILLIAM W. MURRAY
614 S. ELM STREET
SHERMAN, TX 75090

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.

JOE WALSH, IWD
CARLA DENNIS, IWD
KEVAN IRVINE, IWD

(Administrative Law Judge)

March 14, 2012

(Decision Dated & Mailed)

871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant William W. Murray appealed from a decision issued by Iowa Workforce Development (“IWD”) dated December 21, 2011, reference 02, which determined that Mr. Murray was not eligible to receive unemployment insurance benefits as of December 18, 2011, 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 February 12, 2012, to schedule a contested case hearing. A Notice of Telephone Hearing was issued on March 1, 2012, scheduling a hearing for March 14, 2012.

On March 14, 2012, this matter proceeded to a hearing before Administrative Law Judge Robert H. Wheeler. Claimant William W. Murray appeared pro se and testified. No one appeared on behalf of IWD. The documents in the administrative file 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

Mr. Murray was notified in writing noticed to attend reemployment services on December 19, 2011. He did not attend. The notice sent to Mr. Murray reached him on Saturday, December 17, 2011, because he had moved to Texas, and his mail was forwarded from Iowa. Mr. Murray moved to Texas in November of 2011 after surgery. His health requires a warmer climate, and he was able to live with relatives during recovery. Upon receipt of the notice to attend reemployment services, Mr. Murray called and left voicemail for IWD, notifying them that he could not attend on that date, and asking if he could attend the orientation in Texas or through another means. (Murray testimony).

On December 21, 2011, IWD issued a decision finding Mr. Murray was ineligible to receive unemployment insurance benefits as of December 18, 2011, because he had not established justifiable cause for failing to participate in reemployment services. This appeal followed in a timely manner. (Administrative file).

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. Murray failed to attend reemployment services. The record did, however, contain evidence of good cause for his failure to attend. A reasonable person would consider health requirements to be important and significant. These circumstances do constitute justifiable cause as defined in 871 IAC 24.6(6)(a), and the IWD decision must be reversed. The record included some discussion of Mr. Murray's ability to seek his benefits through the state of Texas. He could seek benefits from Iowa with Texas as an agent state, through an interstate agreement, if he is eligible.

DECISION

IWD's decision dated December 21, 2011, reference 02, finding William W. Murray ineligible for unemployment insurance benefits as of December 18, 2011, because he did not provide justifiable cause for failure to participate in reemployment services, is REVERSED.

rhw