

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**RICHARD BANKS
1004 KINGMAN CIRCLE
DES MOINES, IA 50311**

**IOWA WORKFORCE DEVELOPMENT
SHANLYN SEIVERT
REEMP. SERVICES COORDINATOR
430 EAST GRAND AVE.
DES MOINES, IA 50309**

JOE WALSH, IWD

**Appeal Number: 11IWDUI193
OC: 3/13/11
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.

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)

August 26, 2011

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Richard Banks filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated May 10, 2011 (reference 01). In this decision, the Department determined that Mr. Banks was ineligible to receive unemployment insurance benefits from May 1 through May 7, 2011 because he did not establish justifiable cause for failing to participate in reemployment services during that time period.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on July 21, 2011 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties and, on August 26, 2011, a telephone appeal hearing was held before Administrative Law Judge Kerry Anderson. Appellant Richard Banks appeared and presented testimony. Exhibits 1 through 4 were submitted by the Department and admitted into the record as evidence. No

representative from the Department appeared for 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

Richard Banks filed a claim for unemployment insurance benefits with an effective date of March 13, 2011. At some point after he filed the claim, the Department notified Mr. Banks that he was required to attend a reemployment services training on April 28, 2011. Mr. Banks did not receive notice of the appointment and did not attend. (Banks testimony; Exh. 4).

The Department then mailed Mr. Banks a second notice dated April 28, 2011 requiring him to report for reemployment services training on May 6, 2011. (Exh. 4). The notice stated:

If you are unable to keep this appointment please contact the number located at the top of the page.

Failure to report could result in the disqualification of unemployment insurance benefits.

(Exh. 4).

Mr. Banks was out of town looking for work during the week of his rescheduled appointment. He attempted to call the telephone number listed on the notice sent to him from Wednesday, May 4th through Friday, May 6th to explain his inability to attend the session, but the department's voice mailbox assigned to that number was full and he was unable to leave a message. (Banks testimony).

The Department issued a decision on May 10, 2011 that Mr. Banks was ineligible to receive unemployment insurance benefits from May 1 through May 7, 2011. The decision stated that Mr. Banks did not establish justifiable cause for failing to participate in reemployment services during the disqualification time period. (Exh. 2).

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 Department’s May 10, 2011 decision is reversed. The uncontroverted evidence demonstrates that Mr. Banks failed to participate in reemployment services on May 6, 2011 because he was out of town on a job search at that time. He attempted to notify the department using the telephone number provided on the department’s notice but was unable to leave a message because voicemail was full. A reasonable person would find an absence from the community while looking for work to be justifiable cause for missing the scheduled appointment.

DECISION

Iowa Workforce Development’s decision dated May 10, 2011 (reference 01) is REVERSED. The appellant established justifiable cause for failure to participate in reemployment services. The Department shall take any action necessary to implement this decision.

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¹ 871 Iowa Administrative Code (IAC) 24.6.