

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

Appeal Number: 12IWDUI274
OC: 03/04/12
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

RYAN LANE
1407 SEMINOLE AVE NW
CEDAR RAPIDS, IA 52405-2329

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & KEVAN IRVINE

JOE WALSH, IWD
CARLA DENNIS, IWD

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 written 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 31, 2012

(Dated and Mailed)

Iowa Code § 96.6-2 – Timeliness of Appeal
871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant Ryan Lane appeals from a decision issued by Respondent Iowa Workforce Development (“IWD”) dated April 6, 2012, reference 01, finding he was not eligible to receive unemployment insurance benefits because he was mailed a notice to report for reemployment services orientation on April 2, 2012, 2012 and he failed to report.

On July 30, 2012, IWD transmitted the case to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the appeal file to Lane. A contested case hearing was held on August 30, 2012. Kevan Irvine appeared and testified on behalf of IWD. Lane did not appear as directed by the Notice of Telephone Hearing. Lane's copy of the Notice of Telephone Hearing has not been returned as undeliverable mail. Exhibits 1 through 5 were admitted into the record.

ISSUES

Whether the Claimant filed a timely appeal.

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

FINDINGS OF FACT

Lane has received unemployment insurance benefits in the past. IWD scheduled Lane to attend reemployment services orientation on April 2, 2012. Lane did not attend the appointment or contact IWD to reschedule the appointment.

On April 6, 2012, IWD issued a decision, reference 01, finding Lane was ineligible to receive unemployment insurance benefits as of April 1, 2012 because he was mailed a notice to report to attend reemployment services orientation on April 2, 2012 and he did not report. The decision states, in part, "THIS DECISION BECOMES FINAL UNLESS AN APPEAL IS POSTMARKED BY 04/16/12, OR RECEIVED BY THE IOWA WORKFORCE DEVELOPMENT APPEAL SECTION BY THAT DATE." (Exhibit 4). In his appeal, Lane stated he "found the notice stuck to some junk mail." (Exhibit 5).

REASONING AND CONCLUSIONS OF LAW

Iowa Code section 96.6(2) requires a claimant to file an appeal of a representative's decision "within ten calendar days after notification was mailed to the claimant's last known address." The Iowa Supreme Court has determined that timely appeal is both mandatory and jurisdictional.¹

The decision dated April 6, 2012, reference 01, states, in part, "THIS DECISION BECOMES FINAL UNLESS AN APPEAL IS POSTMARKED BY 04/16/12, OR RECEIVED BY THE IOWA WORKFORCE DEVELOPMENT APPEAL SECTION BY THAT DATE." (Exhibit 4). IWD did not receive Lane's appeal until May 29, 2012. Lane did not appear at hearing to explain, under oath, why he failed to file a timely appeal. Lane's appeal was untimely. Because Lane failed to timely appeal, I do not have jurisdiction to consider whether IWD correctly determined Lane did not establish justifiable cause for failing to participate in reemployment services.

¹ *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373, 377 (Iowa 1979).

DECISION

Lane failed to timely appeal. IWD's decision, dated April 6, 2012, reference 01, is affirmed.

hlp