

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

ZACHARY HARRELSON
733 E. 4th STREET N
NEWTON, IA 50208-3128

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT
430 EAST GRAND AVENUE
DES MOINES IA 50319-0209

JOE WALSH, IWD
RUTH GILGEN, IWD

Appeal Number: 13IWDUI024
OC: 7/8/12
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 7, 2013

(Decision Dated & Mailed)

871 IAC 24.26(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant Zachary Harrelson appealed from a decision issued by Iowa Workforce Development (“IWD”) dated December 27, 2012, reference 02, in which IWD determined Mr. Harrelson was not eligible to receive unemployment insurance benefits as of December 23, 2012, because he failed to provide justifiable cause for failing to participate in reemployment services.

IWD transmitted the case to the Department of Inspections and Appeals on January 16, 2013, to schedule a contested case hearing. A Notice of Telephone Hearing issued on January 24, 2013, scheduling a hearing for March 6, 2013.

On March 6, 2013, this appeal proceeded to a hearing before Administrative Law Judge Robert H. Wheeler. Marilyn Butcher appeared and testified for the respondent, IWD. The administrative file entered the record without objection. Claimant Zachary Harrelson failed to appear despite notice sent to his address of record, which is the same address listed on the appeal request and to which the decision at issue was sent.

ISSUES

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

FINDINGS OF FACT

Mr. Harrelson was sent a written notice directing him to attend reemployment services on December 20, 2012. That appointment was cancelled due to bad weather. IWD counselor Ruth Gilgen called Mr. Harrelson and informed him of the cancellation. He verbally agreed to attend a reemployment services appointment on December 26, 2012. A new notice for the re-scheduled date issued. He did not attend and did not call to explain his absence. (administrative file; Butcher testimony).

On December 27, 2012, IWD issued a decision finding Mr. Harrelson was ineligible to receive unemployment insurance benefits as of December 23, 2012, because he had not established justifiable cause for failing to participate in reemployment services. This appeal followed in a timely manner. (administrative file; Butcher testimony).

Mr. Harrelson did not appear for the hearing and did not testify. His appeal letter admitted his failure to appear for reemployment services on December 26, 2012, and stated his need to re-schedule that appointment. He worked part time at snow removal during the appointment. (administrative file; Butcher testimony).

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. Harrelson failed to attend reemployment services. The record did not contain evidence of good cause for his failure to attend and did not attempt to explain his failure to call to explain his situation. These circumstances do not constitute justifiable cause as defined in 871 IAC 24.6(6)(a), and the IWD decision must be affirmed.

DECISION

IWD’s decision dated December 27, 2012, reference 02, denying eligibility for unemployment insurance benefits because the claimant failed to establish justifiable cause for failure to attend reemployment services, is AFFIRMED.

rhw