

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 LEWIS
820 WELLINGTON
WATERLOO, IA 50702

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
RONEE SLAGLE & VELMA SALLIS

JONI BENSON, IWD

Appeal Number: 16IWDUI069-070
OC: 11/08/15
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)

May 2, 2016
(Decision Dated & Mailed)

871 IAC 24.6(6) – Reemployment Services

STATEMENT OF THE CASE

The Appellant Richard Lewis filed an appeal from two decisions issued by Iowa Workforce Development (“IWD”) dated February 1, 2016, reference 03 and February 5, 2016 reference 04. IWD determined that Lewis was not eligible to receive unemployment insurance benefits as of January 24, 2016 and continuing until February 6, 2016 because he failed to report for reemployment and eligibility assessments scheduled on January 25, 2016 and on February 1, 2016.

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 administrative file to Lewis.

A contested case hearing was scheduled for March 28, 2016 at 8:30 a.m. Richard Lewis appeared by telephone and testified. His wife Peggy Lewis also appeared by telephone. Velma Sallis and Gabe Benson testified on behalf of IWD. IWD submitted Exhibits 1-7 into the record without objection.

ISSUES

Did the Department correctly determine the claimant was ineligible to receive unemployment insurance benefits?

Did IWD correctly determine that the Claimant did not establish justifiable cause for failing to participate in reemployment services?

FINDINGS OF FACT

On December 14, 2015 Iowa Workforce Development sent Richard Lewis a letter scheduling him for a Re-employment and Eligibility Assessment (REA) workshop on January 7, 2016 (Ex 1). Lewis attended the workshop. During the January 7, 2016 workshop, IWD scheduled Lewis to attend a Re-employment Orientation on January 25, 2016 and a “Ready Aim Hired” workshop on January 21, 2016 (Ex 2, 2b, 2c).

On January 25, 2016 Lewis attended the workshop. During the class, Lewis told instructor Gabe Benson that he had left his eyeglasses at home. Benson told him that he could leave the class, but that he would be unable to come back. Benson told Lewis to re-schedule the appointment with a worker upfront. Lewis then left the class (Benson Testimony).

Lewis does not dispute that he left the class on January 25, 2016. Lewis contends, however, that he received a card from IWD worker Tracey Goodrich that his appointment was rescheduled for February 10, 2016. According to Lewis, Goodrich told him the February 1, 2016 class was full. He did not notice that there was a problem until his unemployment benefits were suspended on January 29, 2016 (Lewis Testimony).

IWD has submitted a Workshop List indicating that Tracey Goodrich re-scheduled Lewis for the appointment on February 1, 2016 (Ex 3). Lewis maintains that Goodrich wrote the date February 1, 2016 on the back of a card she gave to him (Lewis Testimony).

CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.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

¹ 871 IAC 24.6(1).

workshops or job clubs and referrals to employers; (6) resume preparation; and (7) other similar services.²

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.³ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁴ “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.”⁵

There appears to be no dispute that Lewis first attended, and then left, a required appointment with IWD on January 25, 2016. Lewis’s reason for leaving the appointment was that he failed to bring along a pair of eyeglasses. An IWD representative did not inform Lewis that his decision to leave the appointment to retrieve his eyeglasses would be grounds to suspend his unemployment benefits. Instead the representative told Lewis that he would be required to re-schedule the appointment. IWD therefore incorrectly informed Lewis that his unemployment benefits would be denied as of January 24, 2016 for failing to attend the appointment.

The next question in this in this appeal is whether the appointment was re-scheduled for February 1, 2016 as the Department contends, or February 10, 2016, as Lewis contends. IWD has provided a “Workshop List” indicating that Goodrich re-scheduled Lewis for February 1, 2016. Lewis contends that Goodrich re-scheduled the appointment for February 10, 2016. He stated that he did not attend the February 1, 2016 appointment because he did not know he had the appointment. Goodrich did not testify at the hearing. Lewis appeared genuinely confused about the date of the appointment. In light of this, his confusion about the re-scheduled appointment is justifiable cause for failing to participate in the appointment.

DECISION

IWD’s decisions dated February 1, 2016 and February 5, 2016 are reversed.

² *Id.* 24.6(3).

³ *Id.* 24.6(6).

⁴ *Id.*

⁵ *Id.* 24.6(6) a.