

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

CHRISTINA ZINK
1301 E. OAK PARK AVE.
DES MOINES, IA 50316-1235

**IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & KIMBERLY
WILHELM**

JONI BENSON - IWD

Appeal Nos: 14IWDUI182-183

OC: 4/6/14

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)

July 30, 2014

(Decision Dated & Mailed)

871 IAC 24.6(6) – Reemployment Services
Iowa Code section 96.3(7)

STATEMENT OF THE CASE

Claimant/Appellant Christina Zink appealed a decision issued by Iowa Workforce Development (“IWD”), dated June 10, 2014, reference 03, finding she was mailed a notice to report for a reemployment and eligibility assessment on May 29, 2014 and since she did not report benefits were denied as of May 25, 2014. She also appealed a decision dated June 13, 2014, reference 04, finding that she was overpaid \$337 on her unemployment claim.

IWD transmitted the administrative files to the Department of Inspections and Appeals to schedule a consolidated contested case hearing and a hearing was held on July 29, 2014 before Administrative Law Judge David Lindgren. Zink appeared and testified.

Andi Garrington appeared and testified on behalf of IWD. IWD's exhibits were admitted into the record.

ISSUES

Whether IWD correctly determined the claimant is ineligible to receive unemployment insurance benefits.

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

Whether the Department correctly determined that the claimant was overpaid unemployment insurance benefits and, if so, whether the overpayment was correctly calculated.

FINDINGS OF FACT

IWD scheduled Zink to attend a Reemployment and Eligibility Assessment on May 29, 2014. IWD worker Garrington testified that the notice of this scheduled assessment stated that if she did not attend she would not be eligible for benefits. Zink did not attend the assessment as scheduled. Based on this failure-to-appear, IWD issued a decision that her benefits were denied as of May 25, 2014. It thereafter issued a second decision determining that there had been an overpayment in the amount of \$337 for the week between May 25, 2014 and May 31, 2014.

On June 27, 2014, Zink called IWD worker Kim Wilhelm and told her the reason for missing was that she thought the assessment was voluntary. Wilhelm did not find this to be a valid excuse. Again in this appeal Zink explained that she thought the assessment was voluntary. She admitted it was her fault for missing it, but claimed she was going through a messy divorce at the time and probably did not read the notice closely enough.

REASONING AND 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 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

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

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

Zink’s excuse for missing the assessment—that she believed it to be voluntary—simply does not constitute justifiable cause. This is not an important and significant reason that a reasonable person would consider adequate justification. As such, IWD’s decision must be affirmed. Because she was ineligible for benefits during the week of May 25, 2014 through May 31, 2014 IWD also correctly determined there had been an overpayment that must be repaid.

DECISION

IWD correctly determined Zink did not establish justifiable cause for failing to participate in reemployment services, and its decision dated June 10, 2014, reference 03, is **AFFIRMED**. IWD also correctly determined Zink was overpaid on her unemployment insurance claim in the amount of \$337 and its decision dated June 13, 2014, reference 04, is also affirmed.

dbl

³ *Id.* 24.6(6).

⁴ *Id.*

⁵ *Id.* 24.6(6) *a.*