

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**DIANA KNOWLES**  
**2029 D STREET SW**  
**CEDAR RAPIDS, IA 52404**

**IOWA WORKFORCE DEVELOPMENT**  
**REEMPLOYMENT SERVS. COORDINATOR**  
**SHANLYN SEIVERT & CAROL DUGGAN**  
**430 EAST GRAND AVENUE**  
**DES MOINES, IA 50319-0209**

JONI BENSON, IWD

**Appeal Number: 14IWDUI329**

**OC: 09/07/14**

**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, 4<sup>TH</sup> 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.

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(Administrative Law Judge)

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December 30, 2014

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(Decision Dated & Mailed)

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871 IAC 24.6(6) – Reemployment Services

**STATEMENT OF THE CASE**

Claimant/Appellant Diana Knowles filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated November 4, 2014, reference 03. IWD determined Knowles was not eligible to receive unemployment insurance benefits as of October 26, 2014 because she failed to report for a reemployment services orientation.

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 Knowles.

A contested case hearing was held on December 29, 2014. Knowles appeared and testified. A representative did not appear on behalf of IWD. Knowles' appeal letter dated November 7, 2014 and the Re-Employment and Eligibility Assessment program letter dated October 20, 2014 were submitted as part of the record.

### **ISSUE**

Whether the Department correctly determined the claimant is eligible to receive unemployment insurance benefits.

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

### **FINDINGS OF FACT**

IWD scheduled Knowles to attend reemployment services orientation on October 29, 2014 (Re-employment and Eligibility Assessment Program 10-20-14). Knowles testified that she contacted IWD to let them know that she had found a temporary job and had been working from October 7, 2014 through October 22, 2014. Knowles could not remember the exact date she called IWD but estimated it to be around October 21, 2014. According to Knowles, the IWD representative that she spoke to her told her that it was not necessary to attend the appointment because she was employed. Knowles filed a new claim for unemployment benefits when the temporary job ended on October 22, 2014. Knowles found a new job that began on November 10, 2014. She believes that she was eligible for unemployment benefits during the weeks of October 26, 2014 through November 9, 2014 because she notified IWD that she was employed. She also noted that she was interviewing for the job on October 29, 2014, the day her IWD appointment was scheduled (Knowles Testimony; Appeal Letter (11-7-14)).

### **REASONING AND CONCLUSIONS OF LAW**

The Iowa Administrative Procedure Act provides that if a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may enter a default decision.<sup>1</sup> Iowa Workforce Development (the Department) regulations give the presiding officer discretion regarding whether to proceed with a hearing in the absence of one or more of the parties.<sup>2</sup> In this case, the undersigned proceeded with a hearing on the merits of the case in the absence of IWD.

IWD and the Department of Economic Development jointly provide a reemployment services program.<sup>3</sup> 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

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<sup>1</sup> Iowa Code § 17A.12(3).

<sup>2</sup> 871 Iowa Administrative Code 26.14(6)-(7).

<sup>3</sup> 871 IAC 24.6(1).

workshops or job clubs and referrals to employers; (6) resume preparation; and (7) other similar services.<sup>4</sup>

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.<sup>5</sup> Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.<sup>6</sup> “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.”<sup>7</sup> Knowles provided unrebutted testimony that she had a job interview on October 29, 2014 at the time of the appointment. She also provided unrebutted testimony that she contacted IWD to inform them of her reasons for not attending the appointment. Because Knowles had a job interview on the day of her appointment and promptly contacted IWD to let them know, she has established justifiable cause for failing to participate in reemployment services. IWD’s decision is reversed.

### **DECISION**

IWD’s decision dated November 4, 2014, reference 03, is reversed.

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<sup>4</sup> *Id.* 24.6(3).

<sup>5</sup> *Id.* 24.6(6).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* 24.6(6)a.