

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

CARLTON W. JONES
1816 FRAZIER AVENUE
DES MOINES IA 50315-4860

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR LORI
ADAMS & MARCIA FINK

JONI BENSON, IWD

Appeal Number: 14IWDUI333-334
OC: 9/14/14
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, 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)

December 30, 2014

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Carlton Jones filed an appeal from two decisions issued by Iowa Workforce Development (the Department) dated November 5 and November 6, 2014 (Exhibit 1A; Exhibit 1B). In these decisions, the Department determined that Jones was ineligible to receive unemployment insurance benefits effective October 26, 2014 because he was mailed a notice to report for a reemployment and eligibility assessment on October 30, 2014 and he did not report. (Reference 01, Exhibit 1A). The Department further determined that he was overpaid \$439 for one week between October 26, 2014 and November 1, 2014 due to his failure to report as directed and the subsequent one-week disqualification. (Reference 02, Exhibit 1B).

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on November 14, 2014 to schedule a contested case hearing. A

Notice of Telephone Hearing was mailed to all parties on November 18, 2014. On December 23, 2014, a telephone appeal hearing was held before Administrative Law Judge Tricia A. Johnston. Marcia Fink represented the Department and presented testimony. Exhibits 1 through 3 were submitted by the Department and admitted into the record as evidence. Appellant Carlton W. Jones appeared and presented testimony.

ISSUES

Whether the Department correctly determined that Appellant did not establish justifiable cause for failing to participate in reemployment services and whether the Department correctly determined Appellant was overpaid \$439 in unemployment benefits.

FINDINGS OF FACT

Carlton Jones filed a claim for unemployment insurance benefits with an effective date of September 19, 2014. Jones was originally scheduled by the Department to attend a reemployment services orientation on October 30, 2014. Marcia Fink testified that although she was unable to find the original letter sent to Mr. Jones and she was not the caseworker involved in the case at the time, her records show the Notice was sent out to him. (Fink testimony).

Jones testified that on October 29, 2014, he tried to reach the local Workforce Development office in response to that notice and was put on hold for 30 to 45 minutes. Later that day, he went to the website to see if there was another way of contacting the Department. He found an email address and "shot a quick email" to customer service to see if he could get a hold of someone. They responded back and told him he had no appointments and he should contact his local Iowa Works office. Jones stated he did not have reliable transportation at the time and could not attend the assessment. (Jones testimony; Request for appeal).

Jones did not attend the October 30, 2014 reemployment services orientation. On November 5, 2014, the Department issued a decision disqualifying Jones from receiving unemployment insurance benefits effective October 26, 2014 because of his failure to report for the reemployment services orientation on October 30, 2014. (Exh. A; Fink testimony).

Jones stated he received the first Notice of Decision on November 7, 2014 and again called customer service. He was again referred to his local Iowa Works office. When he contacted that office, he was notified that he needed to contact "Andi" and was given her number. He stated he tried to leave message after message and kept trying to call Andi to try to set up the appointment. He got the notice of overpayment on November 8, 2014 and continued to leave messages for Andi to contact him. (Jones testimony; Request for Appeal).

Fink testified that Sue Barton was Jones' original counselor. She transferred to another department and Fink took over her cases. Fink did not know if or when Barton spoke with Jones and had no notes from any contacts Barton may have had with Jones. She

acknowledged that according to Jones, he did contact the unemployment insurance center first and ended up talking to Iowa Works at a later date on November 7th. She further acknowledged there was a worker named Andi, but did not know if she was there at the time he was trying to call in. (Fink testimony).

Fink testified that Jones called in and rescheduled his REA, which is why the benefits were unlocked as of November 2, 2014. She stated that Jones was paid \$439 for unemployment benefits for the week of October 26, 2014 through November 1, 2014, the week he was disqualified due to his failure to appear. (Fink testimony). Jones timely appealed the Department's decisions.

REASONING AND CONCLUSIONS OF LAW

Iowa Workforce Development and the Iowa Department of Economic Development provide a program that offers reemployment services to individuals receiving unemployment insurance benefits. The services offered include aptitude assessments, employment counseling, job searching assistance, and resume preparation, among other things. Once the Department selects an individual for reemployment services, that individual must participate in those services unless he or she establishes justifiable cause for failure to participate or has previously completed such training. Justifiable cause 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." Failure to participate without justifiable cause disqualifies an individual from receiving benefits until he or she participates in the reemployment services.¹

I found Jones' testimony regarding his attempts to contact the Department to reschedule his reemployment and eligibility assessment credible. Jones stated he did not have reliable transportation and could not attend that assessment. He described in detail his attempts to contact someone at the Department prior to the appointment date. He was able to name the Department representative he was told he needed to contact. His former counselor at Iowa Works, Sue Barton, had transferred during this time adding to the confusion. It does not appear that he was directed to speak to her successor and none of her notes were provided for this hearing.

I find Jones attempted to contact the Department to let them know he could not attend the scheduled appointment and to reschedule his assessment prior to the date of the meeting. Jones credibly described his frustrating attempts to reach someone who could appropriately respond to his request to reschedule his appointment.

I find Jones had good cause to believe he had made appropriate efforts to contact the Department and left them messages notifying them that he would be unable to appear for the scheduled meeting in advance of that meeting. The Department's decision disqualifying him from receiving benefits from October 26, 2014 through November 1, 2014 must be reversed.

¹ 871 Iowa Administrative Code (IAC) 24.6.

As Jones should not have been disqualified from receiving benefits for that week, the Department's decision finding that he was overpaid benefits in the amount of \$439 from October 26, 2014 through November 1, 2014 is likewise reversed.

DECISION

Iowa Workforce Development's decisions dated November 5 and 6, 2014 (reference 01; reference 02) are REVERSED. The Department shall take any action necessary to implement this decision.

taj