

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

MARK GRAVES
29 WESTVIEW DR
MASON CITY, IA 50401-1701

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT

JOE WALSH, IWD
CARLA DENNIS, IWD

Appeal Number: 12IWDUI394
OC: 08/21/11
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)

October 31, 2012

(Decision Dated & Mailed)

871 IAC 24.6(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant Mark Graves filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated August 3, 2012, reference 02, finding Graves is ineligible to receive unemployment insurance benefits as of July 29, 2012, because he failed to attend a reemployment and eligibility assessment on July 29, 2012.

IWD transmitted the case to the Department of Inspections and Appeals on September 11, 2012 to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the administrative file to Graves. Prior to the hearing IWD submitted additional documents and mailed a copy to Graves.

A contested case hearing was held on October 29, 2012 before Administrative Law Judge Heather L. Palmer. Graves appeared and testified. Mila Baier appeared and testified on behalf of IWD. Initially Graves denied receiving a copy of the documents sent to him by IWD. During testimony Graves admitted receiving what were later marked as Exhibits 3 and 4. Exhibits 1 through 4 were admitted into the record.

ISSUE

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

FINDINGS OF FACT

Baier testified she sent Graves a Notice to Report to attend a reemployment and eligibility assessment on August 2, 2012. Graves did not attend or contact Baier to reschedule the appointment. IWD sent Graves a decision on August 3, 2012, reference 02, finding Graves was ineligible to receive unemployment insurance benefits as of July 29, 2012, because he failed to attend a reemployment and eligibility assessment on August 2, 2012. Graves appealed. Graves did not contact IWD to try to reschedule the hearing at any time before the hearing.

Graves' appeal does not provide any grounds for his appeal. At hearing he testified he did not receive the Notice to Report. Graves' testimony that he did not receive the Notice to Report is not reasonable and consistent with the other evidence I believe. During the hearing Graves also denied receiving the original transmittal of the administrative appeal file and supplemental filings from IWD. During the middle of the hearing Graves acknowledged receiving some of the documents from the original file and supplemental exhibits, but not all the documents.

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 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

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

³ *Id.* 24.6(6).

⁴ *Id.*

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

Graves did not attend his scheduled reemployment and eligibility assessment on August 2, 2012. While Graves testified he did not receive the Notice to Report, he also denied receiving two separate mailing from IWD, including the original transmittal of the administrative appeal file and the supplemental exhibits. During the hearing he acknowledged receiving some, but not all of the documents. Graves has not established justifiable cause for failing to participate in reemployment services.

DECISION

IWD’s decision dated August 3, 2012, reference 02, is affirmed.

hlp

⁵ *Id.* 24.6(6)a.