

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

JOSHUA HATHAWAY
2923 POPLAR DR
COUNCIL BLUFFS, IA 51501

IWD REEMPLOYMENT SERVICES
ADVISOR & COORDINATOR
LYNDA FOX & LORI ADAMS

JONI BENSON, IWD
NICHOLAS OLIVENCIA, IWD

Appeal Number: 15IWDUI067
OC: 1/4/15
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)

April 29, 2015

(Decision Dated & Mailed)

871 IAC 24.6(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant Joshua Hathaway filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated February 16, 2015, ref 04. IWD determined Hathaway was not eligible to receive unemployment insurance benefits as of February 8, 2015 because he failed to report for a reemployment and eligibility assessment on February 11, 2015.

A contested case hearing was held by telephone on March 23, 2015. Hathaway appeared by telephone and testified. Lynda Fox appeared and testified on behalf of IWD. A “Notice to Report” dated January 30, 2015, an “Appointment Notification”

dated February 10, 2015 , a “Statement of Fact” dated February 11, 2015, and Hathaway’s appeal request dated February 20, 2015 were included as part of 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

IWD scheduled Hathaway to attend a reemployment and eligibility assessment on February 11, 2015. When Hathaway failed to attend, IWD notified him that he was not eligible for unemployment benefits (Fox Testimony). Joshua Hathaway testified that he was staying with his parents during the time he received the letter. The kitchen of his parent’s home flooded. He helped them to renovate the kitchen but the document was lost during that time. The notice was on the refrigerator prior to the flood (Joshua Hathaway Testimony).

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 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 Hathaway provided credible testimony that the appointment letter was lost after his parent’s home was flooded. The fact that the appointment letter was in a location that got flooded was an event outside of his control. Hathaway has provided justifiable cause for failing to attend the appointment.

DECISION

IWD’s decision dated February 16, 2015, reference 04, is reversed.

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

³ *Id.* 24.6(6).

⁴ *Id.*

⁵ *Id.* 24.6(6)a.

