

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

Appeal Number: 12IWDUI131
OC: 5/2/10
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

BARRY GIANNETTO
P.O. BOX 323
UNION, IA 50258-0323

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
SANDY KROUGH

JOE WALSH, IWD

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)

May 7, 2012

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Barry Giannetto filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 20, 2012, reference O2. In this decision, the Department determined that Giannetto was ineligible to receive unemployment insurance benefits effective January 15, 2011 because he failed to attend a reemployment services orientation.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on March 23, 2012 to schedule a contested case hearing. A Notice of Telephone hearing was mailed to all parties on March 28, 2012. On April 6, 2012, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Workforce advisor Sandy Krough represented the Department and presented testimony. Exhibits A through D were submitted by the Department and admitted into

the record as evidence. Appellant Barry Giannetto appeared at the hearing. Giannetto's daughter, Angie Klaver, represented Giannetto for purposes of the hearing and provided testimony.

ISSUE

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

FINDINGS OF FACT

Barry Giannetto filed a claim for unemployment insurance benefits with an effective date of May 2, 2010. (Exh. B). On December 27, 2011, the Department mailed Giannetto an Initial Notice to Report for a reemployment services workshop to be held on January 18, 2012 at 9:00 AM. The notice advised Giannetto that failure to report for the workshop would result in the denial of unemployment insurance benefits. (Exh. D).

Giannetto did not report to the reemployment services workshop on January 18. On January 20, 2012, the Department issued a decision disqualifying Giannetto for unemployment insurance benefits effective January 15, 2012 because of his failure to report for the January 18, 2012 workshop. (Exh. B, C; Krough testimony). Giannetto appealed this decision. (Exh. A).

Giannetto's daughter, Angie Klaver, testified that she believed her father must have thrown the notice for the reemployment services workshop away after receiving it. Giannetto lives independently, but he does have an old friend help him with his incoming mail. Klaver testified that her father sometimes does not understand what things mean when he receives them in the mail. He does not have any diagnosis that his daughter is aware of. Giannetto is able to make his own appointments and to attend appointments independently. (Klaver testimony).

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

¹ 871 Iowa Administrative Code (IAC) 24.6.

There is no evidence in the record that Giannetto did not receive the notice to report for the January 18 reemployment services workshop. Additionally, his daughter's credible testimony was that he is able to make and keep appointments independently. Giannetto did not testify regarding the reason for his failure to attend the workshop. I do not make any adverse inference based upon Giannetto's failure to testify; rather, I simply note it because there was no testimony at all regarding the reason he failed to attend the workshop. Under these circumstances, I do not find that Giannetto had justifiable cause for failing to appear for the reemployment services workshop. The Department's decision must be affirmed.

It is important to note that the Appellant will continue to be disqualified for benefits until he successfully completes the reemployment services workshop. The Appellant should contact his local Workforce Development office if he wishes to make arrangements to attend an upcoming workshop.

DECISION

Iowa Workforce Development's decision dated January 20, 2012 is **AFFIRMED**. The Department shall take any action necessary to implement this decision.

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