

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

ASHTIN PREISSER
1416 FARNAM ST
DAVENPORT, IA 52803

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
RONEE SLAGLE & DAVID HARTMAN

Joni Benson, IWD

Appeal Number: 17IWDUI165
OC: 09/18/16
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)

December 29, 2016

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Claimant/Appellant Ashtin Preisser appealed a decision issued by Iowa Workforce Development ("IWD"), dated 10/28/16 finding Preisser was mailed a notice to report for a reemployment and eligibility assessment on 10/26/16 and because she did not report, benefits were denied as of 10/23/16.

On 11/22/16, IWD transmitted the administrative file to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the file, it also mailed a copy to Preisser. IWD sent an additional mailing to the Department of Inspections and Appeals and to Preisser on 11/23/16. On 11/30/16, the Department of Inspections and Appeals sent out a Notice of Telephone Hearing, scheduling a contested case hearing for 12/21/16.

On 12/21/16, a contested case hearing was held before Administrative Law Judge Emily Kimes-Schwiesow. Preisser appeared and provided testimony. David Hartman appeared on behalf of IWD. IWD's documents were marked 1 – 4 and admitted into evidence without objection.

ISSUE

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

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

FINDINGS OF FACT

Preisser submitted a claim to IWD for unemployment insurance benefits on 9/18/16. IWD scheduled Preisser to attend a reemployment and eligibility assessment on 10/23/16. The notice to report advised that failure to appear on the date and time listed would result in the denial of unemployment insurance benefits. The notice also provided a phone number to call if unable to attend the appointment. Preisser did not attend the appointment and did not call IWD before the appointment to reschedule. IWD issued a decision on 10/28/16 denying benefits as of 10/23/16. Preisser appealed.

Preisser indicated on her appeal request that she did not attend the assessment on 10/26/16 because another appointment ran late. At hearing, she testified that she did not attend the assessment because she had to take her sister to the hospital. She contends she did attempt to call Mr. Hartman and left a message asking to reschedule.

Mr. Hartman testified that he did not receive any messages from Preisser. He attempted to contact her after she submitted her appeal request and found that her phone number had been changed. He confirmed that Preisser can reschedule her assessment.

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

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

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

Preisser did not attend a required reemployment and eligibility assessment on 10/26/16. She provided different reasons for missing the appointment on her appeal request and later in her testimony at hearing. Preisser contends she left a message for Hartman asking to reschedule. Mr. Hartman did not receive such a message. IWD’s decision should be affirmed.

DECISION

IWD correctly determined Preisser was ineligible to receive unemployment insurance benefits due to the failure to report and Preisser did not establish justifiable cause for failing to participate in reemployment services. The Department’s decision dated 10/28/16 is AFFIRMED.

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³ *Id.* 24.6(6).

⁴ *Id.*

⁵ *Id.* 24.6(6)a.