

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

Appeal Numbers: 10IWDUI284-285
OC: 02/28/10
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

JILLIAN LEWIS
120 E. CHERRY ST.
CHEROKEE, IA 51012

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT
430 EAST GRAND AVENUE
DES MOINES IA 50319-0209

DAN ANDERSON, IWD

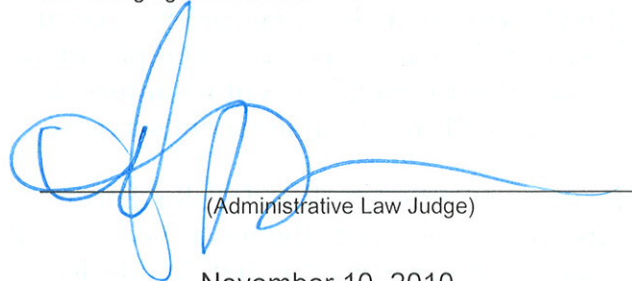
This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor Lucas Building, Des 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)

November 10, 2010

(Dated and Mailed)

Iowa Code section 96.6-2 – Timeliness of Appeal
871 IAC 24.6(6) – Reemployment Services

STATEMENT OF THE CASE

Claimant/Appellant Jillian Lewis filed appeals from two decisions issued by Iowa Workforce Development ("IWD") on May 6, 2010, reference 06, and May 17, 2010, reference 07. In reference 06, IWD found Lewis was ineligible to receive unemployment insurance benefits from May 2, 2010 through May 8, 2010 because Lewis failed to establish justifiable cause for failing to participate in reemployment services. In reference 07, IWD found Lewis was ineligible to receive unemployment insurance

benefits because Lewis failed to participate in required reemployment services. IWD determined Lewis would be ineligible for unemployment insurance benefits from May 9, 2010 until Lewis reported to IWD for reemployment services.

IWD transmitted the cases to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the cases, it mailed a copy of the appeal files to Lewis. A Notice of Telephone Hearing was mailed to all parties on September 23, 2010.

On November 10, 2010, a telephone hearing was held before Administrative Law Judge Heather L. Palmer. Lewis appeared and testified. Jean Holbrook appeared and testified on behalf of IWD. Documents 1 through 6 were admitted into the record.

ISSUES

Whether the claimant filed a timely appeal.

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

FINDINGS OF FACT

On May 6, 2010, IWD issued a decision, reference 06, finding Lewis was ineligible to receive unemployment insurance benefits from May 2, 2010 through May 8, 2010 because Lewis failed to establish justifiable cause for failing to participate in reemployment services. On May 17, 2010, IWD issued a second decision, reference 07, finding Lewis was ineligible to receive unemployment insurance benefits because Lewis failed to participate in required reemployment services. IWD determined Lewis would be ineligible for unemployment insurance benefits from May 9, 2010 until Lewis reported to IWD for reemployment services.

Reference 06, stated, "[t]his decision becomes final unless an appeal is postmarked by 05/16/10, or received by the Iowa Workforce Development Appeal Section by that date." (Exhibit 3). Reference 07 stated, "[t]his decision becomes final unless an appeal is postmarked by 05/27/10, or received by the Iowa Workforce Development Appeal Section by that date." (Exhibit 6). Lewis appealed. The appeal is postmarked August 14, 2010. Lewis acknowledged receiving references 06 and 07 in May 2010. She reported she did not appeal before August 14, 2010 because she did not understand the documents.

REASONING AND CONCLUSIONS OF LAW

Iowa Code section 96.6(2) requires a claimant to file an appeal of a representative's decision "within ten calendar days after notification was mailed to the claimant's last known address." The Iowa Supreme Court has determined that timely appeal is both mandatory and jurisdictional.¹

¹ *Beardslee v. Iowa Dep't of Job Servs.*, 276 N.W.2d 373, 377 (Iowa 1979).

Lewis's appeal is postmarked August 14, 2010. Reference 06, stated, "[t]his decision becomes final unless an appeal is postmarked by 05/16/10, or received by the Iowa Workforce Development Appeal Section by that date." (Exhibit 3). Reference 07 stated, "[t]his decision becomes final unless an appeal is postmarked by 05/27/10, or received by the Iowa Workforce Development Appeal Section by that date." (Exhibit 6). Lewis's appeal of the two decisions was untimely. Since Lewis's appeal was untimely, I do not have jurisdiction to consider whether IWD properly determined Lewis did not establish justifiable cause for failing to participate in reemployment services.

DECISION

The representative's decisions are **AFFIRMED**. IWD properly determined Lewis did not establish justifiable cause for failing to participate in reemployment services.

hlp

