

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

DARREN LONG
2203 OAK STREET
BETTENDORF, IA 52722-4430

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
DAVID HARTMAN

JOE WALSH, IWD

Appeal Number: 13IWDUI054
OC: 6/3/12
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)

March 28, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Darren Long filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated January 10, 2013 (reference 03). In this decision, the Department determined that Long was ineligible to receive unemployment insurance benefits effective January 6, 2013 because he failed to report for a reemployment and eligibility assessment

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on January 30, 2013 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on February 5, 2013. On March 28, 2013, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Workforce advisor David Hartman represented the Department and presented

testimony. Exhibits A through E were submitted by the Department and admitted into the record as evidence. Appellant Darren Long appeared and presented 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

Darren Long filed a claim for unemployment insurance benefits with an effective date of June 3, 2012. At some point, the Department scheduled Long to attend a reemployment and eligibility assessment on January 3, 2013 at 1:00 PM. At the same time and date, Long was attending a job interview. The Department rescheduled Long's reemployment and eligibility assessment for January 9, 2013 at 9:00 AM. (Exh. B, D, E; Hartman, Long testimony).

Long was scheduled to participate in a physical and drug screen for a job he had been offered with Phoenix Closures in Davenport, Iowa on January 9, 2013 at the same time as the Department's scheduled assessment. Long attempted to call his local Workforce Development office a day or two before January 9 in order to advise someone of the conflict. He called three times and was unable to get in touch with anyone; he ultimately left a voicemail message advising of the conflict. Long believes that he left the message on workforce advisor David Hartman's voicemail, but is not entirely sure whether it was his voicemail or someone else's. Hartman does not recall receiving any communication from Long. (Long; Hartman testimony).

Long did not attend the January 9 reemployment assessment due to the conflict with the drug screen and physical. Long took the job with Phoenix Closures and is currently working there. (Exh. C; Long testimony).

On January 10, 2013, the Department issued a decision disqualifying Long from receiving unemployment insurance benefits effective January 6, 2013 because of his failure to report for the reemployment and eligibility assessment on January 9, 2013. Long appealed the decision. (Exh. A, B).

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

Long provided credible testimony at hearing that he was unable to attend the January 9 reemployment assessment because he had to participate in a physical and drug screen for a job he had been offered with Phoenix Closures. He subsequently began working for Phoenix Closures and was still working there at the time of hearing. While Hartman did not specifically recall any communication from Long, I found Long’s testimony that he attempted to contact the Department to inform someone of the conflict credible. Even if he had not contacted the Department in advance, an appointment with an employer regarding a job offer certainly constitutes justifiable cause for failing to participate in reemployment services. The goal of reemployment services is to assist individuals in becoming reemployed; it would be paradoxical indeed for Long to be penalized for prioritizing an appointment with an employer who had offered him a job over the reemployment and eligibility assessment. Under these circumstances, the Department erred in disqualifying Long from receiving benefits and its decision must be reversed.

DECISION

Iowa Workforce Development’s decision dated January 10, 2013, reference 03, is REVERSED. The Department shall take prompt steps to issue benefits to Darren Long back to the date of disqualification, provided he was otherwise eligible. The Department shall take any additional action necessary to implement this decision.

¹ 871 Iowa Administrative Code (IAC) 24.6.