

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

KEVIN C. CAPSEL
910 Cedar Street
Webster City, IA 50595-2716

**IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & ANGELA PETERSON**

JOE WALSH, IWD
JONI BENSON, IWD

Appeal Number: 13IWDUI057
OC: 08/12/12
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)

March 29, 2013

(Decision Dated & Mailed)

871 IAC 24.2(1)(e) – Reemployment Services

Statement of the Case

Claimant/Appellant Kevin Capsel appeals from a decision issued by Iowa Workforce Development (“IWD”), dated January 22, 2013, reference 04, finding he was ineligible to receive unemployment insurance benefits as of January 13, 2013 because he failed to attend a reemployment and eligibility assessment on January 17, 2013. Mr. Capsel filed a timely appeal request on January 25, 2013.

On January 29, 2013, IWD transmitted the administrative file to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the file, it mailed a copy of the administrative file to Mr. Capsel. On February 5, 2013, the Department of Inspections and Appeals issued a Notice of Telephone Hearing, scheduling a contested case hearing for March 28, 2013.

A contested case hearing was held before Administrative Law Judge Christie Scase on March 28, 2013. Appellant Kevin Capsel did not appear for the hearing. Angela Peterson, a Workforce Advisor with the IWD office in Ft. Dodge, appeared and testified on behalf of IWD. The administrative file submitted by IWD and the notice of telephone hearing were admitted into the record.

Issues

Whether the department correctly determined that 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

IWD selected Kevin Capsel to participate in its reemployment services program. IWD sent him a notice to report to attend a reemployment services assessment appointment on January 17, 2013. Mr. Capsel attended the appointment at the workforce center in Webster City, but he did not bring required job-contact records with him. Workforce Advisor Angela Peterson told him that he could bring or fax the records to her later that day. Mr. Capsel did not deliver the records to IWD by the end of the following day and at the end of the day on January 18th Ms. Peterson “locked” his benefits. (Peterson testimony)

IWD issued a decision on January 22, 2013, reference 04, finding Kevin Capsel was ineligible to receive unemployment insurance (UI) benefits as of January 13, 2013, because he failed to report for a reemployment and eligibility assessment on January 17, 2013.

On January 24, 2013, Mr. Capsel brought the required job-contact records to the workforce center in Webster City. The records were faxed to Ms. Peterson at the Ft. Dodge office. Ms. Peterson “unlocked” Capsel’s benefits on January 24th, the same day she received the records. He has been regularly claiming benefits since then. Capsel was locked-out of UI benefits for one week because due to his failure to bring the job-contact records to the January 17, 2013 reemployment services appointment. (Peterson testimony)

Mr. Capsel filed his appeal request on January 25, 2013. In the appeal he stated that he got his job contacts in order and faxed them in. The appeal request and notice to Capsel telling him the UI benefits had been unlocked appear to have crossed in the mail. Capsel did not participate in the appeal hearing.

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

In order to maintain continuing eligibility for benefits, an individual is required to report to IWD as directed.³ Specifically, 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.⁴

Failure by the claimant to fully participate in reemployment services without justifiable cause disqualifies the claimant from receiving benefits until the claimant participates in reemployment services.⁵ "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."⁶

Kevin Capsel did not participate in the hearing. The evidence presented shows that he failed to bring required job search records to a reemployment services appointment on January 17, 2013. His UI benefits were locked for a one week period. Mr. Capsel submitted the needed records on January 24th and his benefits were unlocked. Mr. Capsel has not explained why the records were submitted a week after they were due. Justifiable cause for not filing the records on January 17th has not been shown. Therefore, the January 22, 2013 decision locking his benefits is affirmed.

DECISION

IWD correctly determined Capsel did not establish justifiable cause for failing to participate in a reemployment services and its decision dated January 22, 2013, reference 04, is AFFIRMED.

cjs

¹ 871 Iowa Administrative Code (IAC) 24.6(1).

² 871 IAC 24.6(3).

³ 871 IAC 24.2(1)*e*.

⁴ 871 IAC 24.6(6).

⁵ 871 IAC 24.6(6).

⁶ 871 IAC 24.6(6)*a*.