

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

Appeal Number: 12IWDUI023
OC: 8/28/11
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.

DECISION OF THE ADMINISTRATIVE LAW JUDGE

RICHARD SHAFFER
3211 11TH AVE. APT. A
COUNCIL BLUFFS, IA 51501-6702

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
SUZANNE SCHLEIMAN

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.

JOE WALSH, IWD

(Administrative Law Judge)

February 27, 2012

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Richard Shaffer filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated November 14, 2011, reference 03. In this decision, the Department determined that Mr. Shaffer was ineligible to receive unemployment insurance benefits effective November 6, 2011 because he refused to participate in reemployment services as required.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on January 17, 2012 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on January 18, 2012. On February 24, 2012, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Workforce advisor Joel Thompson represented the Department and presented testimony. Exhibits A through C were submitted by the Department and

admitted into the record as evidence. Appellant Richard Shaffer was provided instructions to participate in the hearing, but did not call in to do so. The hearing was held in his absence.

ISSUE

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

FINDINGS OF FACT

Richard Shaffer filed a claim for unemployment insurance benefits with an effective date of August 28, 2011. (Exh. B). Shaffer was scheduled to attend a reemployment services orientation on November 9, 2012. Shaffer appeared for that orientation, which was being led by workforce advisor Joel Thompson. At some point during the orientation, one of the other participants asked a question about whether individuals who are full-time students are required to attend reemployment services activities. Thompson answered that if an individual was engaged in Department-approved training (DAT), the individual would be exempted from reemployment services activities. Thompson allowed Shaffer and at least one other student to leave the class briefly to talk to another Department worker in order to determine whether they were approved for training and therefore exempted from reemployment services. Shaffer did not return to the class. Thompson spoke with the worker who Shaffer talked with that day and she advised Thompson that she told Shaffer that he was not approved for training and that he would have to speak with Thompson about the issue. Shaffer apparently left at that point. (Thompson testimony).

On November 14, 2011, the Department issued a decision denying unemployment insurance benefits to Shaffer effective November 6, 2011 based on his refusal to participate in reemployment services. (Exh. B). Shaffer appealed the decision. In his appeal letter, Shaffer asserts that he was told by someone at the Department on November 9 that if he was a student he did not have to participate in the orientation.

At some point after November 9, Shaffer contacted the Department and arranged to attend another reemployment services orientation. Shaffer attended an orientation on December 22, 2011 and the Department approved benefits for him effective December 18, 2011. (Thompson 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

I find Thompson’s version of the events of November 9 more credible, largely because he was present at the hearing and provided detail regarding Shaffer’s conduct during the November 9 orientation. Thompson credibly testified that Shaffer was instructed by Department staff that he needed to stay at the class unless Thompson exempted him. Thompson further testified that after Shaffer was given those instructions he left the building without speaking to Thompson and did not return. Under these circumstances, Shaffer did not have justifiable cause for failing to complete the reemployment services orientation.

DECISION

Iowa Workforce Development’s decision dated November 14, 2011, reference 03, is **AFFIRMED**. The Department shall take any action necessary to implement this decision.

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¹ 871 Iowa Administrative Code (IAC) 24.6.