

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

Appeal Number: 11IWDUI299

OC: 8/28/11

Claimant: Appellant (2)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

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.**

JANET BROWER
616 3RD AVENUE
COON RAPIDS, IA 50058-1313

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

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR
430 EAST GRAND AVE.
DES MOINES, IA 50309

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.

JOE WALSH, IWD

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)

January 30, 2012

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Janet Brower filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated October 25, 2011 (reference 01). In this decision, the Department determined that Ms. Brower was ineligible to receive unemployment insurance benefits effective October 16, 2011 because of a failure to attend a reemployment services orientation on October 21, 2011.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on December 8, 2011 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on December 12, 2011. On December 23, 2011, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Appellant Janet Brower appeared and presented testimony. Exhibits 1 through 4 were submitted by the Department with the administrative file and

admitted into the record as evidence. No representative from the Department appeared to participate in the hearing.

ISSUE

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

FINDINGS OF FACT

Janet Brower filed a claim for unemployment insurance benefits with an effective date of August 28, 2011. On October 13, 2011, the Department mailed Ms. Brower an Initial Notice to Report for reemployment services. The notice advised Ms. Brower that she was scheduled to attend a three-hour reemployment services workshop on October 21, 2011. (Exh. 4).

Ms. Brower received this notice on October 14, 2011, one week prior to the scheduled class. Prior to being laid off from her job, Ms. Brower had made a commitment to her son and daughter-in-law to provide child care for her grandchild in northeast Iowa on October 21, 2011. Ms. Brower had requested vacation time from her job approximately nine months in advance of the date that she was planning to provide child care. Ms. Brower's son and daughter-in-law were both working that day and their normal child care arrangements were unavailable, so Ms. Brower agreed to provide child care so that they could both attend work. (Brower testimony).

After receiving the Department's notice, Ms. Brower immediately called in to the Department to explain the situation and request to reschedule the workshop. Ms. Brower wanted to attend the reemployment services appointment because she thought it would be very beneficial to her; she had worked for the last 20 years at the same job and thought she could use some updating on interviewing and resumes. Ms. Brower spoke with someone at the Department's Carroll office who told her that she could only get out of the workshop in the event of a death or a job. (Brower testimony).

Ms. Brower did not feel she could renege on her commitment to her son and daughter-in-law so close in time to the date she was scheduled to provide child care. October 21 was a Friday and Ms. Brower cared for her grandson all day that day. She had her cell phone with her and her husband knew that if anyone called to talk to her about a job he would get ahold of Ms. Brower on her cell phone. (Brower testimony).

On October 25, 2011, the Department issued a decision disqualifying Ms. Brower from receiving unemployment insurance benefits effective October 16, 2011 and continuing until she reported for a reemployment services orientation. (Exh. 1).

Ms. Brower went to the very next reemployment services workshop that was being held in her area. She was only disqualified from receiving benefits from October 16 through October 22, 2011. (Brower 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

The Department’s October 25, 2011 decision is reversed. Ms. Brower’s credible testimony demonstrates that her failure to participate in reemployment services on October 21, 2011 was due to a commitment Ms. Brower had made months before to provide child care to her grandson so that his parents could attend work. Ms. Brower made immediate arrangements to reschedule the workshop and attended in a very timely fashion. A reasonable person would consider such a commitment adequate justification for failing to attend the reemployment services workshop.

DECISION

Iowa Workforce Development’s decision dated October 25, 2011, reference 01, is REVERSED. The Appellant established justifiable cause for failure to participate in reemployment services. The Department shall take prompt steps to issue the appellant benefits for the time period that she was disqualified, provided she was otherwise eligible. The Department shall take any additional action necessary to implement this decision.

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¹ 871 Iowa Administrative Code (IAC) 24.6.