

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

Appeal Number: 13IWDUI288
OC: 03/10/13
Claimant: Appellant (02)

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.**

CAROL WATCHHORN
715 SOUTH IRENE STREET
SIOUX CITY, IA 51106

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
INVESTIGATIONS AND RECOVERY
150 DES MOINES STREET
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.

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.

JONI BENSON, IWD
SHANLYN SEIVERT
JEAN HOLBROOK, IWD

(Administrative Law Judge)

AUGUST 30, 2013

(Decision Dated & Mailed)

Iowa Code section 17A.12(3) – Default
871 Iowa Administrative Code 26.14(6)-(7) – Failure to Appear
871 Iowa Administrative Code section 24.2(1)e – Reemployment Services

STATEMENT OF THE CASE

On May 28, 2013, Claimant/Appellant Carol J. Watchhorn filed an appeal from a decision issued by Iowa Workforce Development (“IWD”) dated May 17, 2013, reference 02, finding she was ineligible to receive unemployment insurance benefits because she failed to establish justifiable cause for failing to participate in re-employment services. IWD disqualified Watchhorn from receiving benefits effective May 12, 2013 and continuing until Watchhorn reported for orientation.

On or about June 7, 2013, IWD transmitted the case to the Iowa Department of Inspections and Appeals (DIA) to schedule a contested case hearing. When IWD transmitted the case, it mailed a copy of the administrative file to Watchhorn.

On June 17, 2013, DIA administrative hearings issued a *Notice of Telephone Hearing* to all parties setting a hearing date of July 31, 2013 at 8:30 a.m. The notice contained instructions regarding how to participate in the telephone hearing. On July 31, 2013 at 8:36 a.m., Administrative Law Judge Charles B. Tarvin convened the hearing. Watchhorn failed to appear. Jean Holbrook, re-employment services coordinator, appeared and testified on behalf of IWD. The judge admitted the appeal, UI decision letter, statement of fact/decision worksheet, and IWD notice to report into the record.

The Iowa Administrative Procedure Act provides that if a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may enter a default decision. See Iowa Code section 17A.12(3) Iowa Workforce Development regulations give the presiding officer discretion regarding whether to proceed with a hearing in the absence of one or more of the parties. See 871 Iowa Administrative Code (IAC) section 26.14(6), (7). In the case at issue, the judge exercised his discretion by not entering a default decision against Watchhorn.

ISSUE

Whether IWD correctly determined that the claimant did not establish justifiable cause for failing to participate in re-employment services.

FINDINGS OF FACT

As a recipient of unemployment benefits, Watchhorn was responsible for participating in re-employment services. On April 12, 2013, IWD scheduled Watchhorn for a re-employment and eligibility orientation appointment on May 2, 2013. On April 29, 2013, Watchhorn contacted Holbrook and requested that her appointment be rescheduled. Holbrook left a message for Watchhorn granting the request and rescheduling the appointment for May 7, 2013.

Watchhorn contacted Holbrook and requested that the appointment be rescheduled for the following week. Holbrook granted the request and rescheduled the appointment for May 15, 2013. Holbrook informed Watchhorn that Watchhorn would need to bring her job searches when Watchhorn reported on May 15, 2013. On May 15, 2013, Watchhorn failed to appear and/or timely reschedule the scheduled interview with IWD.

On May 17, 2013, IWD disqualified Watchhorn from receiving benefits effective May 12, 2013 and continuing until Watchhorn reported for orientation.

On May 28, 2013, Watchhorn filed the appeal and suggested that she had good cause for failing to attend the rescheduled appointment on May 15, 2013 because she found a job that would begin on June 3, 2013.

REASONING AND CONCLUSIONS OF LAW

IWD and Department of Economic Development jointly provide a re-employment services program. Re-employment 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. In order to maintain continuing eligibility for unemployment insurance benefits, an individual is required to report when directed to do so by a representative from IWD.

A claimant is required to participate in re-employment services when referred by IWD, unless the claimant establishes justifiable cause for failure to participate or the claimant previously completed the training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in re-employment services. 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 re-employment to the claimant.

In the case at issue, Watchhorn failed to provide justifiable cause for failing to attend a re-employment service orientation appointment and/or to submit job searches on May 15, 2013. It is ORDERED that IWD's decision be affirmed.

DECISION

The Department shall take any actions necessary to implement this decision.

CBT