

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

MEGAN PROBST
2237 BRYAN
SIOUX CITY, IA 51109

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
JEAN HOLBROOK

TERESA HILLARY, IWD

Appeal Number: 14IWDUI213
OC: 5/11/14
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)

August 29, 2014

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Megan Probst filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated June 26, 2014 (reference 03). In this decision, the Department determined that Probst was ineligible to receive unemployment insurance benefits effective June 22, 2014 because she failed to participate in a reemployment and eligibility assessment.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on July 29, 2014 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on July 31, 2014. On August 28, 2014, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Reemployment services specialist Jean Holbrook represented the Department and presented testimony. Exhibits A through E were submitted by the Department and

admitted into the record as evidence. Appellant Megan Probst 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

Megan Probst filed a claim for unemployment insurance benefits with an effective date of May 11, 2014. On June 5, 2014, the Department mailed Probst a Notice to Report requiring that she attend a reemployment and eligibility assessment on June 25, 2014 at 2:00 PM. (Exh. B, E).

After receiving the Notice to Report, Probst called her local IWD office on June 19, 2014. Reemployment services specialist Jean Holbrook was unavailable, but Probst spoke with an employee named Beth. Probst informed Beth that she had started working at Chad Fisher Construction. Probst also left a voicemail message for Holbrook on that date stating that she had found employment and would not be attending the assessment. Around the same time that Probst made this call, she also called IWD's 800-number and reported that she had begun working at Chad Fisher Construction. Probst received a letter from IWD confirming that she had reported her employment at Chad Fisher Construction. (Probst testimony).

Probst began working for Chad Fisher Construction the week of May 17, 2014, approximately one week after she filed her claim for unemployment insurance benefits. She called in a weekly claim to the Department from May 17 through June 14, 2014. During the first two weeks – the weeks of May 17 and May 24 – Probst's wages were such that she was still entitled to partial unemployment insurance benefits. From May 31 on, however, her weekly wages were too high for her to receive any benefits. Probst's typical work hours at Chad Fisher Construction are Monday through Friday from 8:00 AM to 4:30 PM. (Probst testimony).

Probst worked from 8:00 AM to 4:30 PM on June 25, 2014, the date that the reemployment assessment was scheduled. Probst called the Department's 800-number again prior to that date to confirm that she could not attend because of her employment. Probst was told that if she was working she did not need to attend the reemployment assessment. (Probst testimony).

After Probst did not attend the June 25 reemployment assessment, the Department issued a decision dated June 26, 2014 disqualifying Probst from receiving benefits effective June 22, 2014 because of failure to report for the reemployment assessment. (Exh. E).

At hearing, Holbrook testified that the reason she did not excuse Probst from attending the June 25 assessment was that Probst had not returned her phone call seeking information about where she was working. Holbrook testified that she does not take

reports that individuals are working “literally” because many people use that excuse to get out of attending required reemployment services. (Holbrook 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

Probst did not attend the June 25 reemployment assessment because she had already secured full-time employment and was working that day from 8:00 AM to 4:30 PM. It is difficult to think of any cause more justifiable for failing to attend a program that is intended to offer assistance regarding reemployment than that an individual has already secured full-time employment. Having secured full-time employment, Probst had justifiable cause for failing to participate in reemployment services. The Department’s decision must be reversed.

DECISION

Iowa Workforce Development’s decision dated June 26, 2014 is REVERSED. The Department shall take prompt steps to issue benefits to Megan Probst back to the date of disqualification, 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.