

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

Appeal Numbers: 15IWDUI051-052
OC: 09/21/14
Claimant: Appellant (1)

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**.

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.

JOHN HULSE
9140 GREENSPIRE DR UNIT 115
WEST DES MOINES, IA 50266

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
LORI ADAMS & LEA HUBBARD

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
STEPHEN SLATER, IWD

(Administrative Law Judge)

February 27, 2015

(Decision Dated & Mailed)

871 IAC 24.2(1)e – Reemployment Services
Iowa Code section 96.3-7 – Recovery of Overpayment Benefits

STATEMENT OF THE CASE

Claimant/Appellant John Hulse appealed two decisions issued by Iowa Workforce Development (“IWD”), dated January 23, 2015, reference 02 and January 27, 2015, reference 03. In reference 02, IWD found Hulse was ineligible to receive unemployment insurance benefits as of January 11, 2015 because he failed to attend a reemployment services assessment on January 12, 2015. In reference 03, IWD found Hulse was overpaid \$432 for the week of January 11, 2015 through January 17, 2015 because he failed to report to IWD as directed by the notice he received.

On February 9, 2015, IWD transmitted the administrative files to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted

the administrative file, it mailed a copy to Hulse. On February 10, 2015, the Department of Inspections and Appeals sent out a Notice of Telephone Hearing, scheduling a contested case hearing for February 27, 2015.

On February 27, 2015, a contested case hearing was held before Administrative Law Judge Heather L. Palmer. Hulse appeared and testified. Lea Hubbard appeared and testified on behalf of IWD. Exhibits 1 through 3 were admitted into the record.

ISSUES

Whether the Department correctly determined 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.

Whether IWD correctly determined that the claimant was overpaid unemployment benefits, and, if so, whether the overpayment was correctly calculated.¹

FINDINGS OF FACT

IWD selected Hulse to participate in its reemployment services program. IWD sent Hulse a notice of appointment to appear for a reemployment and eligibility assessment in November 2014. The appointment was rescheduled.

IWD rescheduled Hulse's appointment for December 1, 2014. Hulse did not attend the appointment.

IWD rescheduled Hulse's appointment on December 15, 2014 for January 12, 2015. Hubbard sent Hulse's notice of appointment through mail and through e-mail. On January 23, 2015, IWD issued a decision, reference 02, finding Hulse was ineligible to receive unemployment insurance benefits as of January 11, 2015 because he failed to attend a reemployment services assessment on January 12, 2015.

IWD further found Hulse received benefits he was not entitled to for the week of January 11, 2015 because of the disqualification imposed by the January 23, 2015 decision. IWD issued a decision on January 27, 2015, reference 03, finding Hulse was overpaid \$432 for the week of January 11, 2015 through January 17, 2015 because he failed to report to IWD as directed by the notice he received.

Hulse testified he received the appointment notice for the January 12, 2015 appointment via e-mail and he wrote down the wrong date of the appointment. Hulse reported he wrote down the wrong appointment on two separate occasions.

¹ The notice of hearing did not identify the overpayment issue. Hulse received a copy of the overpayment decision, reference 03, prior to the hearing. IWD's decision dated January 27, 2015, imposing a \$432 overpayment for one week based upon the disqualification for Hulse's failure to attend the January 12, 2015 appointment was addressed at the hearing.

REASONING AND CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.² 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.³

I. Justifiable Cause

In order to maintain continuing eligibility for benefits, an individual is required to report to IWD as directed.⁴ 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.⁵ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁶ "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."⁷

Hulse testified he wrote down the wrong date of his appointment with Hubbard. Hulse has not established justifiable cause in this case.

II. Overpayment

When IWD determines an individual who received unemployment benefits was ineligible to receive benefits, IWD must recoup the benefits received irrespective of whether the individual acted in good faith and was not otherwise at fault.⁸ IWD may, in its discretion, recover the overpayment either by having a sum equal to the overpayment deducted from any future benefits payable to the individual, or by having the individual pay IWD a sum equal to the overpayment.⁹

Hulse received benefits for the week of January 11, 2015 through January 17, 2015. Hulse was not entitled to benefits the week of January 11, 2015 through January 17, 2015 because he failed to attend his scheduled appointment on January 12, 2015. IWD has established Hulse received a \$432 overpayment.

² 871 IAC 24.6(1).

³ *Id.* 24.6(3).

⁴ *Id.* 24.2(1)e.

⁵ *Id.* 24.6(6).

⁶ *Id.*

⁷ *Id.* 24.6(6)a.

⁸ Iowa Code § 96.3(7) (2011).

⁹ *Id.*

DECISION

IWD's decisions dated January 23, 2015, reference 02, and January 27, 2015, reference 03, are AFFIRMED.

hlp