

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

Appeal Number: 10IWDUI337-38

OC: 09/12/10

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.

**PATRICK HUSTON
1201 INMAN DRIVE
RED OAK, IA 51566-1252**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT
SHANLYN SEIVERT
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.

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.

DAN ANDERSON, IWD

(Administrative Law Judge)

March 7, 2011

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Patrick Huston filed a timely appeal from two decisions issued by Iowa Workforce Development (the Department). In the first decision, issued November 8, 2010 (reference 03), the Department determined that Mr. Huston was ineligible to receive unemployment insurance benefits from October 31 through November 6, 2010 because he did not establish justifiable cause for failing to participate in reemployment services. In the second decision, issued November 15, 2010 (reference 04), the Department determined that Mr. Huston was ineligible to receive unemployment insurance benefits effective November 7, 2010 because he did not participate in reemployment services. The decision states that Mr. Huston is not eligible to receive unemployment insurance benefits until he reports to his workforce development center for the reemployment service.

The case was transmitted from Workforce Development to the Department of

Inspections and Appeals on January 4, 2011 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on January 20, 2011. On March 4, 2011, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Heather Semke represented the Department and presented testimony. Appellant Patrick Huston appeared and presented testimony. Exhibits 1 through 8 were submitted by the Department and admitted into the record as evidence.

ISSUE

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

FINDINGS OF FACT

Patrick Huston filed a claim for unemployment insurance benefits with an effective date of March 7, 2010. At some point after Mr. Huston filed his claim, the Department mailed him a notice to report for reemployment services training on October 22, 2010. (Semke testimony). On October 19, 2010, Mr. Huston notified an advisor at his local workforce development center, as well as Heather Semke, that he would be unable to participate in reemployment services training on October 22, 2010 because of a job interview. Ms. Semke informed Mr. Huston that he could reschedule the reemployment services training and that there would be another training in Red Oak in a couple of weeks. (Huston testimony).

On October 25, 2010, the Department mailed Mr. Huston a second notice to report for the reemployment services program. The notice to report informed Mr. Huston that he was scheduled for reemployment services on November 5, 2010 from 1:00 to 4:00 PM at the workforce development center in Red Oak. (Exh. 5).

Mr. Huston was out of town from approximately October 25, 2010 through November 6 or 7, 2010. He did not receive the second notice to report until he got back into town, at which point it was already too late for him to attend the scheduled reemployment services training on November 5. Mr. Huston's out-of-town trip was not related to job searching. (Huston testimony).

After Mr. Huston failed to appear for the reemployment services training on November 5, 2010, the Department scheduled an interview with Mr. Huston to discuss the issue. At that interview, on November 12, 2010, Mr. Huston explained to Ms. Semke that he had simply gotten the date of the November 5 class wrong and did not appear for that reason. (Exh. 7; Semke testimony). In his appeal letter, Mr. Huston also indicated that he had gotten the date of the RES appointment wrong; he indicated that he put it in his planner for November 12, 2010. (Exh. 1). At hearing, Mr. Huston explained that Ms. Semke had told him on October 19, 2010 that he could reschedule for two weeks from the date of the first class. Mr. Huston erroneously recorded two weeks from October 22 as November 12 rather than November 5. (Huston testimony).

On November 8, 2010, the Department issued a decision disqualifying Mr. Huston from receiving unemployment insurance benefits from October 31, 2010 through November

6, 2010, the week that he missed the rescheduled reemployment services training. (Exh. 3). On November 15, 2010, the Department issued a decision disqualifying Mr. Huston from receiving unemployment insurance benefits from November 7, 2010 until he reports to his workforce development center for reemployment services benefits. (Exh. 6).

Mr. Huston subsequently completed a reemployment services training through the Department on November 19, 2010. At that time, the Department unlocked his claim and Mr. Huston became eligible for unemployment insurance benefits once again. (Semke 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 evidence demonstrates in this case that Mr. Huston failed to participate in reemployment services on November 5, 2010 because he had written the date down incorrectly in his planner and did not receive the Department’s notice until after he came back from an out-of-town trip. While these circumstances are understandable, they do not constitute justifiable cause for failure to participate in reemployment services.

DECISION

Iowa Workforce Development’s decisions dated November 8, 2010 (reference 03) and November 15, 2010 (reference 04) are AFFIRMED. The Department shall take any action necessary to implement these decisions.

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¹ 871 Iowa Administrative Code (IAC) 24.6.