

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

CRAIG A. LEWERENZ
2110 WESTDALE DR. SW APT 7
CEDAR RAPIDS, IA 52404

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVICES
COORDINATOR
SHANLYN SEIVERT
430 EAST GRAND AVENUE
DES MOINES IA 50319-0209

JOE WALSH, IWD

Appeal Number: 11IWDUI148
OC: 07/26/09
Claimant: Appellant (1)

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 written 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)

July 28, 2011

(Dated and Mailed)

871 IAC 24.6(6)

STATEMENT OF THE CASE:

Appellant Craig Lewerenz filed this appeal from a decision entered by Iowa Workforce Development (IWD) on April 11, 2011, reference 03, holding that he was ineligible for unemployment insurance benefits from April 3, 2011 through April 9, 2011 because he failed to provide justifiable cause for failing to participate in reemployment services.

IWD forwarded this appeal to this office on June 10, 2011. Hearing was set for July 27, 2011, and notice of said hearing issued to all parties on June 15, 2011.

On July 27, 2011, at the time scheduled for hearing, Mr. Lewerenz did not appear despite notice of hearing sent to his address of record, which was the same address listed on his appeal letter. The matter proceeded to a hearing before Administrative Law Judge Robert H. Wheeler. Carol Duggan of IWD appeared and testified. The documents contained in the administrative file, numbered 1 - 3, entered the record without objection.

FINDINGS OF FACT:

The appellant received unemployment benefits. Mr. Lewerenz was selected for referral to reemployment services. On March 9, 2011, at a meeting with Ms. Duggan, Mr. Lewerenz agreed to attend reemployment services on March 21, 2011. When Mr. Lewerenz left the meeting, Ms. Duggan provided a written reminder of the reemployment services session. He did not attend or call to explain his absence. (Exhibit 3; Duggan testimony).

At this time, IWD sent a letter to Mr. Lewerenz rescheduling an orientation and assessment session for April 7, 2011. Again Mr. Lewerenz did not attend the rescheduled session and did not call. (Exhibit 3; Duggan testimony).

On April 11, 2011, IWD issued its decision denying unemployment benefits for the period from April 3, 2011 through April 9, 2011, based on Mr. Lewerenz' failure to establish justifiable cause for failing to participate in the reemployment services program. (Exhibit 2).

Mr. Lewerenz sent a letter regarding his appeal from the decision denying benefits which stated that he did not attend reemployment services because he had a job lined up in Atlanta. The job fell through, and he remained unemployed. (Exhibit 1).

REASONING AND CONCLUSIONS OF LAW:

The Administrative Procedures Act, Iowa Code 17A.12(3), provides that a presiding officer may, upon a party's failure to appear, either enter a default or proceed with the hearing in the party's absence.

Iowa Workforce Development and the Iowa Department of Economic Development have teamed up to provide a program offering reemployment services to individuals who have been profiled as permanently separated from employment and most likely to exhaust unemployment benefits. 871 IAC 24.6(1), (2). The program includes assessments of aptitude, work history and interests, employment counseling, job search and job placement assistance, labor market information, workshops, resume preparation and related services. 871 IAC 24.6(3)(a)-(g). Once referred to the program, an individual must participate in services unless he or she has justifiable cause for failing to. 871 IAC 24.6(6). "Justifiable cause" is defined by the department's rules as "an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant." 871 IAC 24.6(6)(a). Failure to participate in the Reemployment Services Program without justifiable cause disqualifies an individual from receiving unemployment benefits until such time as he or she begins to participate. 871 IAC 24.6.

Here, the record shows that Mr. Lewerenz was scheduled to attend an orientation and assessment session on two occasions but failed to appear. Although he stated that he did not attend because he had a job lined up, no time frames were provided to explain the conflict on two occasions, and no evidence explained how that prevented a phone call to request rescheduling. Mr. Lewerenz also did not attend the hearing to present further evidence. These circumstances do not constitute justifiable cause as defined in 871 IAC 24.6(6)(a), and the IWD decision must be affirmed.

DECISION:

Iowa Workforce Development's decision dated April 11, 2011, reference 03, holding Craig Lewerenz ineligible to receive unemployment benefits from April 3, 2011 through April 9, 2011 is **AFFIRMED**.

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