

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

JENNIFER FINDLING
P.O. BOX 174
ROYAL, IA 51357

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
ANN CONNER

JOE WALSH, IWD

Appeal Number: 13IWDUI221
OC: 1/27/13
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)

June 12, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Jennifer Findling filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated April 23, 2013 (reference 02). In this decision, the Department determined that Findling was ineligible to receive unemployment insurance benefits effective April 14, 2013 because she failed to participate in a reemployment services orientation.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on May 8, 2013 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on May 15, 2013. On June 11, 2013, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Workforce advisor Ann Conner represented the Department and presented testimony.

Exhibits A through G were submitted by the Department and admitted into the record as evidence. Appellant Jennifer Findling 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

Jennifer Findling filed a claim for unemployment insurance benefits with an effective date of January 27, 2013. Findling was originally scheduled by the Department to attend a reemployment services orientation on March 15, 2013. Findling was unable to attend that orientation due to illness. Findling was rescheduled to attend a subsequent reemployment services orientation on April 3, 2013. Findling was unable to attend that orientation because her daughters were ill and she had to take them to the doctor on the same date. (Exh. B, C; Conner testimony).

On April 3, 2013, the Department mailed another notice to Findling scheduling her to attend a reemployment services orientation on April 19, 2013. Findling did not receive this notice. She receives her mail at a post office box because there is no home mail delivery in the town of Royal, Iowa, where she lives. The postmaster in Royal is relatively new and this has been causing some difficulties with residents getting the correct mail placed in their boxes. Findling has repeatedly gotten other residents' mail placed in her box – including important documents such as bills – and assumes that some of her mail, including the April 3 notice, may have gotten placed in someone else's box. The post office hours in Royal have been cut severely back, and Findling thinks this may explain why people who get mail that does not belong to them do not hand it in to the postmaster to be redelivered. (Exh. D; Findling testimony).

Findling did not attend the April 19 reemployment services orientation and did not call the Department to explain her failure to attend. On April 23, 2013, the Department issued a decision disqualifying Findling from receiving unemployment insurance benefits effective April 14, 2013 because of her failure to report for the reemployment services orientation on April 19, 2013. (Exh. A, B; Conner testimony).

Findling appealed the decision. She also contacted the Department as soon as she was aware that she had been disqualified in order to inquire about the reason for her disqualification. Findling subsequently attended a May 1 reemployment services orientation and her benefits were reinstated effective the week of May 1. (Exh. F; Conner 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

I found Findling’s testimony regarding her failure to receive the notice of the April 19, 2013 reemployment services orientation credible. Findling had called the Department in the past when she was unable to attend an appointment and, after finding out about her disqualification, immediately called the Department to schedule a new orientation. Her track record of communication with the Department corroborates her assertion that she did not receive the notice regarding the April 19 orientation. Failure to receive notice of the reemployment services appointment constitutes justifiable cause for failure to appear. The Department’s decision must be reversed.

DECISION

Iowa Workforce Development’s decision dated April 23, 2013 (reference 02) is **REVERSED**. The Department shall take prompt steps to issue benefits to Jennifer Findling back to the date of disqualification, provided she was otherwise eligible. The Department shall take any additional action necessary to implement this decision.

¹ 871 Iowa Administrative Code (IAC) 24.6.