

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

DECISION OF THE ADMINISTRATIVE LAW JUDGE

ALLYSON RASMUSSEN
1315 3rd AVENUE S
ESTHERVILLE, IA 51334

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
SHANLYN SEIVERT & ANN CONNER

Joni Benson, IWD

Appeal Number: 13IWDUI214
OC: 02/10/13
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 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 28, 2013

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Claimant/Appellant Allyson Rasmussen appealed a decision issued by Iowa Workforce Development ("IWD"), dated April 23, 2013, finding Rasmussen was mailed a notice to report for a reemployment services orientation on April 19, 2013 and because she did not report benefits were denied as of April 14, 2013.

On May 3, 2013, IWD transmitted the administrative file to the Department of Inspections and Appeals to schedule a contested case hearing. When IWD transmitted the file, it mailed a copy of the administrative file to Rasmussen. On May 9, 2013, the Department of Inspections and Appeals sent out a Notice of Telephone Hearing, scheduling a contested case hearing for June 27, 2013.

On June 27, 2013, a contested case hearing was held before Administrative Law Judge Emily Kimes-Schwiesow. Rasmussen appeared and provided testimony. Ann Conner appeared and testified on behalf of IWD. Exhibits 1 through 5 were admitted into the record.

ISSUE

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.

FINDINGS OF FACT

IWD scheduled Rasmussen to attend a reemployment services orientation on April 19, 2013. Conner testified Rasmussen did not attend the appointment and did not call IWD before the appointment to reschedule. IWD issued a decision dated April 23, 2013, finding Rasmussen was mailed a notice to report for reemployment services orientation on April 19, 2013 and because she did not report benefits were denied as of April 14, 2013. Rasmussen appealed.

Rasmussen testified that she did receive the notice to report but could not attend because she was scheduled to work at her part-time job. She did not realize she should call in and let anyone know that she had a conflict. The notice to report mailed to Rasmussen clearly stated that a failure to appear would result in a denial of benefits and provided a number to call if unable to keep the appointment. (Exh. 5). Rasmussen has not had any communication with IWD regarding the missed orientation.

REASONING AND CONCLUSIONS OF LAW

IWD and the Department of Economic Development jointly provide a reemployment services program.¹ 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.²

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.³ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁴ "Justifiable cause for failure to

¹ 871 IAC 24.6(1).

² *Id.* 24.6(3).

³ *Id.* 24.6(6).

⁴ *Id.*

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.”⁵

Rasmussen did not attend a reemployment services orientation on April 19, 2013. Rasmussen testified credibly that she failed to appear due to a conflict with her work schedule. She reported that she didn’t realize she should call IWD to report the conflict. However, she received the notice to report which clearly instructed her to appear and to call in if she could not attend. Rasmussen’s failure to call in and report her conflict with the orientation date does not meet the definition of justifiable cause. IWD’s decision should be affirmed.

DECISION

IWD correctly determined the Rasmussen was ineligible to receive unemployment insurance benefits due to the failure to report and Rasmussen did not establish justifiable cause for failing to participate in reemployment services. The Department’s decision dated April 23, 2013, is AFFIRMED.

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⁵ *Id.* 24.6(6)a.