

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

Appeal Number: 15IWDUI322
OC: 8/2/15
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.

DECISION OF THE ADMINISTRATIVE LAW JUDGE

TAMMY L. SPOSETO
PO BOX 122
COLLINS, IA 50055

STATE CLEARLY

IOWA WORKFORCE DEVELOPMENT
REEMP. SERVICES COORDINATOR &
RONEE SLAGLE, SANDRA KROUGH

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.

JONI BENSON, IWD
NICHOLAS OLIVENCIA, IWD
EMILY CHAFA, UI APPEALS MANAGER

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)

October 21, 2015

(Decision Dated & Mailed)

STATEMENT OF THE CASE

Tammy Sposeto filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated September 16, 2015, reference 01. In this decision, the Department determined that Sposeto was disqualified from receiving unemployment insurance benefits effective September 13, 2015. The decision states that the disqualification is a result of Sposeto failing to report to a Reemployment Services Orientation on September 14, 2015.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on September 29, 2015, to schedule a contested case hearing. A hearing was scheduled for October 20, 2015. On that date, a telephone appeal hearing was held before Administrative Law Judge Maria Brownell. Workforce Advisor Sandra Krough represented the Department and presented testimony. The Appellant appeared

and provided testimony. IWD did not offer any exhibits for admission into the record. The contents of the administrative file were admitted into the record upon official notice and without objection.

ISSUE

The two issues certified for resolution on appeal are: (1) whether the Department correctly determined the claimant is ineligible to receive unemployment insurance benefits; and (2) whether the Department correctly determined that the claimant did not establish justifiable cause for failing to participate in reemployment services.

FINDINGS OF FACT

Tammy Sposeto filed a claim for unemployment insurance benefits with an effective date of August 2, 2015. Sposeto attended voluntary requested events in connection with the Re-employment Services program, including two career fairs and a meeting at the Evelyn K Davis Center regarding continuing education opportunities. (Sposeto testimony).

On August 20, 2015, the Department's Re-employment Services Program division mailed her a Notice to Report for an orientation and assessment class. The class was set for September 14, 2015 at 9:00 a.m. Sposeto made plans to attend. (Sposeto testimony). The Notice provides "If you are unable to keep this appointment please contact the number located at the top of the page." (Notice to Report).

On Friday, September 11, Sposeto received a job offer. She called the phone number listed on the Notice to Report at 5:45 p.m. on Friday, September 11. She left a message reporting that she had found full-time employment and would like to cancel the appointment scheduled for Monday, September 14. In her message, she requested that someone contact her if anything further was required. (Sposeto testimony).

The Department received her message, but Sposeto did not receive a return phone call. The Department notes indicate that Sposeto is "currently working however want to ensure claimant gets res service if need UI in future." (Statement of Fact).

On Monday, September 14, Sposeto again called the number listed on her Notice to Report to ensure her message was received. (Sposeto testimony). She did not speak to any Department representative and no representative ever returned her calls. (Sposeto testimony).

On September 16, 2015, the Department issued a Notice of Decision disqualifying Sposeto from receiving Unemployment Insurance Benefits for failing to report to the September 14 reemployment assessment class. (09/16/15 Notice of Decision).

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

Sposeto did not attend the September 14 reemployment orientation and assessment because she had received an offer of full-time employment already. She was informed on the Friday afternoon before the Monday morning class that she was being offered the position. Sposeto immediately called and left a message at the phone number indicated on her Notice to relay this information and asked for a return phone call if anything further was required of her. She again called on the date of the class to ensure that her message had been received.

It is difficult to think of any cause more justifiable for failing to attend a program that is intended to offer assistance regarding reemployment than that an individual has already secured full-time employment. I find Sposeto’s testimony that she attempted to convey this employment to the Department prior to the class on September 14 credible. The Department does not dispute this fact. Because Sposeto had justifiable cause for failing to attend the September 14 reemployment assessment, the Department’s decision must be reversed. The Department erred in finding Sposeto ineligible to receive unemployment insurance benefits on this basis.

DECISION

Iowa Workforce Development’s decision dated September 16, 2015, reference 01, is REVERSED. The Department shall promptly take any steps necessary to implement this decision, including amending its records and file to reflect Sposeto did not fail to appear without justifiable cause and is not disqualified from receiving future benefits on that basis.

Meb.

¹ 871 Iowa Administrative Code r.24.6.