

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

Appeal Number: 14IWDUI310

OC: 06/08/14

Claimant: Appellant (3)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

JOHN NORRIS
217 52nd STREET
WEST DES MOINES, IA 50265-2846

ATTN: JOHN NORRIS
3834 LANEWOOD DRIVE
DES MOINES, IA 50311

IOWA WORKFORCE DEVELOPMENT
REEMPLOYMENT SERVS. COORDINATOR
LORI ADAMS & SUE BARTON
MARCIA FINK

TERESA K HILLARY, IWD
JONI BENSON, IWD

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)

December 1, 2014

(Decision Dated & Mailed)

871 IAC 24.2(1)e – Reemployment Services
871 IAC 24.11
871 IAC 24.6(6)

STATEMENT OF THE CASE

Claimant/Appellant John Norris appealed a decision issued by Iowa Workforce Development (“IWD”), dated October 21, 2014, reference 04, finding he was eligible to receive unemployment insurance benefits beginning October 5, 2014, as long as he meets all the other eligibility requirements, after he attended his required reemployment and eligibility assessment appointment on October 6, 2014. This decision followed prior decisions disqualifying Mr. Norris from receiving unemployment insurance benefits because he failed to attend a reemployment and eligibility assessment appointment on July 8, 2014. John Norris submitted a timely appeal from the October 21, 2014 decision on October 23, 2014. The IWD Appeals Section received his appeal that same date. Mr. Norris appealed the denial of his unemployment benefits from August 3, 2014 to September 27, 2014.

On October 27, 2014, IWD transmitted the administrative file to the Department of Inspections and Appeals (DIA) Administrative Hearings Divisions (AHD) to schedule a contested case hearing. When IWD transmitted the file to the DIA AHD, it mailed a copy of the administrative file to Mr. Norris. On October 30, 2014, the Department of Inspections and Appeals sent out a Notice of Telephone Hearing, scheduling a contested case hearing for December 1, 2014.

On December 1, 2014, a contested case hearing was held before Administrative Law Judge Emily Gould Chafa. John Norris appeared and testified. Marcia Link appeared and testified on behalf of IWD. Exhibits 1 through 13 were admitted into the record without any objections.

ISSUES

1. Whether the department correctly determined the claimant is ineligible to receive unemployment insurance benefits.
2. Whether the department correctly determined that the claimant did not establish justifiable cause for failing to participate in reemployment services.

FINDINGS OF FACT

The pertinent facts are undisputed. Some of the underlying facts were part of a previous appeal and are included in ALJ Greta's decision issued on September 5, 2014. (Exhibits 11-13) IWD apparently selected John Norris to participate in its reemployment services program. IWD apparently sent a notice of a reemployment and eligibility assessment (REA) appointment to Mr. Norris, on July 8, 2014. Mr. Norris did not attend the appointment. He did not receive the notice of this REA appointment until later in July, when a resident of a similar address (217 South 52nd Street) put the notice in his door. (Exhibit 12) Before he actually received the notice of the REA appointment, he received two notices of decisions from IWD and appealed those decisions. (Exhibits 11-13)

According to Mr. Norris, he learned for the first time from ALJ Greta during the hearing on September 5, that he should contact IWD and reschedule his REA appointment. (Norris testimony) After he received the Notice of Decision in July, he contacted IWD and asked what he should do. He was told to file an appeal. Despite numerous calls to various IWD representatives, none of them told him to come in for a rescheduled REA appointment. He received different and contradicting information from various IWD representatives each time he called. (Norris testimony) Sue Barton did not appear for the September 5 hearing. (Exhibits 11-13; Norris testimony) After that hearing, Mr. Norris contacted Sue Barton and finally scheduled another REA appointment. He attended that appointment on October 6, 2014. (Norris testimony; Exhibits 9, 10) His unemployment insurance benefits were restored as of that week. (Exhibit 9; Link testimony)

Mr. Norris got a job in September. He stopped filing claims for unemployment insurance benefits then. He is currently asking for the unemployment insurance benefits for the weeks of August 3, 2014 through September 27, 2014.

At the hearing, Ms. Link testified that Mr. Norris should have been able to reschedule his REA appointment sooner than October 6, 2014. (Link testimony) Ms. Link reviewed the file, and stated that she did not understand why his benefits were not restored as of August 3, 2014. Ms. Link conceded that Mr. Norris established good cause for his failure to participate in reemployment services. (Link testimony)

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

In order to maintain continuing eligibility for benefits, an individual is required to report to IWD as directed.³ Specifically, 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.⁴ Failure by the claimant to participate without justifiable cause shall disqualify the claimant from receiving benefits until the claimant participates in reemployment services.⁵ "Justifiable cause for failure to 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."⁶

John Norris credibly testified that he did not receive notice of the July 8 appointment until a few weeks later. (Norris testimony) Soon after he received the decision stating that he missed the appointment, Mr. Norris took action, by appealing that decision within the deadline. (Exhibit 11-13) Mr. Norris contacted IWD representatives several times, often speaking with different people, and often receiving contradictory information. None of these IWD representatives offered to reschedule his REA appointment. None of these IWD representatives advised him to reschedule this REA appointment. He finally managed to reschedule his REA appointment with Sue Barton after ALJ Greta advised him to do so during his previous appeal hearing on September 5. His benefits were restored after he attended his appointment on October 6, 2014. IWD did not provide any credible reason why the REA appointment was not rescheduled in August or September. I conclude that John Norris established justifiable cause for missing the July 8, 2014 REA appointment because he did not receive notice of the appointment, through no fault of his own. I conclude that John Norris established good cause for his failure to immediately reschedule and attend the REA appointment.

¹ 871 Iowa Administrative Code (IAC) 24.6(1).

² 871 IAC 24.6(3).

³ 871 IAC 24.2(1)e.

⁴ 871 IAC 24.6(6).

⁵ 871 IAC 24.6(6).

⁶ 871 IAC 24.6(6)a.

(Link testimony; Norris testimony) Sue Barton's failure to participate in the initial appeal hearing on September 5 added to the delay. (Exhibits 11-13)

IWD's determination that John Norris was ineligible for unemployment insurance benefits from August 3, 2014 through September 27, 2014, is reversed. IWD's decision dated October 21, 2014, must therefore be modified to state that John Norris is eligible for unemployment insurance benefits beginning 08/03/2014.

DECISION

IWD's decision, dated October 21, 2014, reference 04, is MODIFIED, to clearly state that John Norris is "eligible to receive unemployment insurance benefits beginning **08/03/2014** as long as you meet all the other eligibility requirements."
egc