

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

**Appeal Number: 15IWDUI213**  
**OC: 4/19/15**  
**Claimant: Appellant (2)**

**DECISION OF THE ADMINISTRATIVE LAW JUDGE**

**TIMOTHY KALVIG**  
**601 ORCHARD HILLS DRIVE #7010**  
**NORWALK, IA 50211**

**IOWA WORKFORCE DEVELOPMENT**  
**REEMP. SERVICES COORDINATOR &**  
**LEA HUBBARD**

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

**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, 4<sup>TH</sup> 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 22, 2015

---

(Decision Dated & Mailed)

---

**STATEMENT OF THE CASE**

Timothy Kalvig filed an appeal from a decision issued by Iowa Workforce Development (the Department) dated June 16, 2015 (reference 04). In this decision, the Department determined that Kalvig was ineligible to receive unemployment insurance benefits effective June 7, 2015 because he failed to participate in a reemployment and eligibility assessment.

The case was transmitted from Workforce Development to the Department of Inspections and Appeals on June 29, 2015 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on July 2, 2015. On July 21, 2015, a telephone appeal hearing was held before Administrative Law Judge Laura Lockard. Workforce advisor Lea Hubbard represented the Department and presented testimony.

Exhibits A through E were submitted by the Department and admitted into the record as evidence. Appellant Timothy Kalvig 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**

Timothy Kalvig filed a claim for unemployment insurance benefits with an effective date of April 19, 2015. At hearing, workforce advisor Lea Hubbard testified that on May 14, 2015 the Department mailed Kalvig a notice to report for a reemployment and eligibility assessment on June 8, 2015. The Department submitted a notice which purported to be the notice that was mailed to Kalvig. The notice states that it is a “Rescheduled Initial Notice.” Upon questioning, Hubbard admitted that she could not find the actual notice that she asserts was sent to Kalvig, so she created a notice to submit as an exhibit for hearing with a template that she has for rescheduling notices. The notice submitted by the Department as evidence in this matter is not the notice that was actually sent to Kalvig. The Department did not submit a copy of the notice that was sent to Kalvig. Although Hubbard does not create the initial notices for reemployment and eligibility assessments that the Department sends out, she typically receives copies of those notices in a batched email. She could not find a copy of any notice sent to Kalvig. (Exh. C; Hubbard testimony).

In addition, the notice that Hubbard created for hearing lists the wrong address for Kalvig. It has an address of 2119 E. 9th Street, Norwalk, IA 50211. Kalvig’s address, which is the address that the decision disqualifying him from receiving benefits was sent to, is 601 Orchard Hills Drive #7010, Norwalk, IA 50211. (Exh. C, E; Kalvig testimony).

Kalvig did not receive any notice directing him to report for a reemployment and eligibility assessment on June 8, 2015, consequently he did not report for the assessment. On June 16, 2015, the Department issued a decision disqualifying Kalvig from receiving unemployment insurance benefits effective June 7, 2015 based on his failure to report for the June 8 reemployment and eligibility assessment. (Kalgig testimony; Exh. E).

### **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.<sup>1</sup>

Kalvig credibly testified at hearing that he did not receive the notice advising him to report for the June 8 reemployment and eligibility assessment. Additionally, the Department has failed to present any persuasive evidence that the notice was actually sent. Hubbard was unable to locate a copy of the notice and the notice that she recreated for hearing purposes lists the wrong address.

Under these circumstances, I find that Kalvig did not have notice of the June 8 reemployment and eligibility assessment. Failure to receive notice of the reemployment assessment constitutes justifiable cause for failure to appear. The Department’s decision disqualifying Kalvig from receiving benefits must be reversed.

### **DECISION**

Iowa Workforce Development’s decision dated June 16, 2015 (reference 04) is REVERSED. The Department shall take prompt steps to issue benefits to Timothy Kalvig back to the date of disqualification, provided he was otherwise eligible. The Department shall take any additional action necessary to implement this decision.

---

<sup>1</sup> 871 Iowa Administrative Code (IAC) 24.6.