

State of Wisconsin



Labor and Industry Review Commission

Daniel Kick
Claimant

Hearing No. 20005817MD

**Unemployment Insurance
Decision¹**

Dated and Mailed:

December 10, 2020

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The commission **reverses** the appeal tribunal decision. Accordingly, the claimant is eligible for unemployment benefits in week 20 of 2020.

By the Commission:

/s/
Michael H. Gillick, Chairperson

David B. Falstad, Commissioner

/s/
Georgia E. Maxwell, Commissioner

¹ **Appeal Rights:** See the blue enclosure for the time limit and procedures for obtaining judicial review of this decision. If you seek judicial review, you **must** name the following as defendants in the summons and the complaint: the Labor and Industry Review Commission, all other parties in the caption of this decision or order (the boxed section above), and the Department of Workforce Development. Appeal rights and answers to frequently asked questions about appealing an unemployment insurance decision to circuit court are also available on the commission's website, <http://lirc.wisconsin.gov>.

Procedural Posture

This case is before the commission to consider the claimant's eligibility for unemployment insurance benefits. An administrative law judge (ALJ) of the Unemployment Insurance Division of the Department of Workforce Development held a hearing and issued a decision. The commission received a timely petition for review. The commission has considered the petition, and it has reviewed the evidence submitted at the hearing.

Findings of Fact and Conclusions of Law

1. The claimant filed an initial claim for benefits on April 19, 2020 (week 17 of 2020).
2. On May 2, 2020, the claimant was mailed a letter instructing him to complete an online orientation and assessment for reemployment services (RES) by May 16, 2020 (week 20 of 2020). The claimant did not receive that letter.
3. The claimant saw an online notification regarding the RES requirement prior to the deadline for completion of that task when he filled out his weekly claim certifications. It directed him to go to the "job website."
4. Prior to May 16, 2020, the claimant went to the job website and did what he thought he was supposed to do. However, it was not clear to him what the requirements were and he did not successfully complete the RES requirements. The system did not inform him that he still needed to complete a required task.
5. The claimant realized he was not receiving benefits and on May 19, 2020, successfully completed the RES requirements.
6. The claimant had good cause for failing to complete the RES requirements during week 20 of 2020.

Memorandum Opinion

The department may require a claimant to participate in reemployment services.² A claimant is ineligible for benefits for any given week in which the claimant fails to participate in such services, unless the claimant had good cause for such failure. Good cause exists if a claimant is unable to participate because the claimant was:

- summoned to serve as a prospective or impaneled juror;
- enrolled in and satisfactorily participating in approved training, a work share program, a self-employment assistance program, or another state or federally-enacted program designed to assist individuals to become employed;
- employed; or
- attending a job interview.

² Wis. Admin. Code § DWD 127.07(1).

Finally, good cause exists if the failure to participate was due to circumstances beyond the claimant's control.³

In this case the department mailed the claimant a letter informing him of the requirements but he did not receive the letter⁴. That letter informed the claimant that he was required to complete both an online orientation and assessment. The letter further indicated that this was to be completed by May 16, 2020 and that he would be ineligible for benefits if he did not complete the task by the deadline. The letter also directed him to the site to complete the task. The letter contained information regarding the need to complete the task, the deadline and the manner in which he could begin to complete the task. Because he never received the letter, his failure to complete the RES requirements in a timely manner was for a reason beyond his control.

The commission did not obtain the demeanor impression of the ALJ prior to reversing his decision. The claimant was the only witness at the hearing so there was no disputed testimony.

³ Wis. Admin. Code § DWD 127.07(2).

⁴ Department records reflect that the claimant changed his address to his username, rather than his street address. Department records further reflect that department mailed correspondence to the incorrect "address" given by the claimant and that correspondence was returned to the department.