

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

CYNTHIA K LECKBAND

Claimant

and

IWD INVESTIGATIONS & RECOVERY

HEARING NUMBER: 20BUI-02238

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed April 1, 2020. The notice set a hearing for April 13, 2020. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Claimant had new employment and didn't get off work until 2:30 p.m., as explained in her April 8, 2020 written request for postponement. The Claimant did not get a response to her request until the date of the hearing. She did not realize the hearing was still taking place.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2015) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

871 IAC 26.8(2) provides:

A hearing may be postponed by the presiding officer for good cause, either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement may be in writing or oral, provided the oral request is tape-recorded by the presiding officer, and is made not less than three days prior to the scheduled hearing. A party shall not be granted more than one postponement except in the case of extreme emergency.

Here the Claimant did not participate in the hearing through no fault of the Claimant. The Claimant did not participate because she could not be available on the original hearing date. The Claimant complied with the aforementioned rule by submitting a postponement request in writing within three days of the hearing. The Claimant has established good cause for her nonparticipation and did so in a timely manner. For this reason, the matter will be remanded for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated April 14, 2020 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau for a new hearing to be ***scheduled after 2:30 p.m.*** The administrative law judge shall conduct the hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Ashley R. Koopmans

James M. Strohman

Myron R. Linn