

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JENNY P NGUYEN

Claimant

APPEAL NO: 15A-UI-02512-KCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CATHOLIC HEALTH INITIATIVES IOWA

Employer

OC: 02/01/15

Claimant: Appellant (6)

Iowa Code § 17A.12(3) – Default Decision

Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated February 17, 2015 (reference 01) that denied benefits based upon the claimant's separation. Notice of the hearing was mailed to the parties' last-known addresses of record, for a telephone hearing to be held at 1:30 p.m. on March 30, 2015. The claimant called more than 30 minutes after the hearing was scheduled to be held and stated that she had participated in another hearing that was held at the same time the hearing was scheduled in the present matter. She did not identify why she had not registered to participate as instructed in the hearing notice. She indicated that she was not aware of the conflicting hearing times before the time the two hearings were scheduled to begin. No hearing was held in the present matter because the claimant/appellant failed to respond to the hearing notice and register a number at which she could be reached.

ISSUE:

Should the appeal be dismissed based upon the appellant not being available to participate in the scheduled hearing?

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The appellant failed to respond to the hearing notice instruction and provide a telephone number at which she could be reached and she did not request a postponement of the hearing as required by the hearing notice.

The Agency's decision concluded that the claimant was disqualified for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party.

The statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

Agency rule Iowa Admin. Code r. 871-26.14(7) provides that if the appealing party has not responded to a notice of telephone hearing by providing the Appeals Bureau with the names and telephone numbers of the persons who are participating in the hearing *by the scheduled starting time of the hearing or is not available at the telephone number provided*, the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rule further states that *failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record*. Iowa Admin. Code r. 871-26.14(7)c. (Emphasis added.)

The claimant's assertion, made after the time the hearing was scheduled, that she had two hearings scheduled simultaneously on different matters is not considered good cause because she did not read the hearing notice instruction and contact the Appeals Bureau before her unemployment hearing to relay the conflict in her schedule and request that the hearing be rescheduled.

The appellant appealed the unemployment insurance decision but failed to be available to participate in the scheduled hearing. The appellant has therefore defaulted on appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the decision remains in full force and effect.

If the appellant disagrees with this decision, a request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at the scheduled time.

DECISION:

The unemployment insurance decision dated February 17, 2015 (reference 01) remains in effect. The appellant is in default and the appeal is dismissed.

Kristin A. Collinson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-242-5144

Decision Dated and Mailed

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