

**IOWA WORKFORCE DEVELOPMENT DEPARTMENT
UNEMPLOYMENT INSURANCE APPEALS SECTION
1000 EAST GRAND AVE
DES MOINES IA 50319**

**Appeal Number: 05A-UI-03884-SWT
OC: 03/20/05 R: 02**

**AUDREY A MITCHELL
109 N 2ND ST #1
MARSHALLTOWN IA 50158**

**HY-VEE INC
c/o TALX – UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283**

**BARRY KAPLAN
ATTORNEY AT LAW
111 E CHURCH ST
MARSHALLTOWN IA 50158**

**TALX – UC EXPRESS
3799 VILLAGE RUN DR #511
DES MOINES IA 50317**

ORDER TO REOPEN RECORD

At 5:28 p.m., on April 20, 2005, the representative for the employer, David Williams, sent an email to administrative law judge, Steven A. Wise, requesting that the hearing scheduled for May 3, 2005, at 11:30 a.m. be postponed because the employer's first-hand witness, Ric Anderson, was out of town and not reachable by phone. The administrative law judge overlooked the request for a postponement among the 30 emails that he received on April 20 and 21, 2005. No action was taken on the employer's request for a postponement. On May 3, 2005, a hearing was held in the above matter. The claimant participated in the hearing with her attorney and provided testimony. The employer had not called in and provided a telephone number to participate. As a result, the employer did not participate in the hearing.

On May 9, 2005, a decision was issued in this matter in favor of the claimant. On May 11, 2005, the employer requested in writing that the hearing be reopened based on the April 20, 2005, request for a postponement.

871 IAC 26.8 provides that a hearing shall be reopened upon a showing of good cause, and that if a decision has been issued and the request to reopen the hearing has been

made within 15 days of the date the decision has been issued, the decision shall be vacated and a new hearing shall be scheduled before another administrative law judge.

Based on the above facts and the law, there is good cause to reopen this hearing in this matter.

It is Ordered that decision entered on May 9, 2005, shall be vacated and another telephone hearing will be scheduled before a different administrative law judge

Steven A. Wise
Administrative Law Judge

Dated and mailed:

saw:pjs

Copies to all parties of record.