

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

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CHARLES A CAREY

Claimant,

and

PEARSON GOVERNMENT SOLUTIONS  
INC

Employer.

HEARING NUMBER: 07B-UI-08798

EMPLOYMENT APPEAL BOARD  
DECISION

**SECTION:** 10A.601 Employment Appeal Board Review

**D E C I S I O N**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed September 19, 29007. The notice set a hearing for October 1, 2007. The claimant called the agency on September 25<sup>th</sup> to provide a telephone number at which he could be reached and also requested a continuance of the hearing. On the day of the originally scheduled hearing, the claimant did not appear for or participate in the hearing. The reason the claimant did not appear is because the claimant expected that a new hearing date would be set. He did not know that the originally scheduled hearing was taking place.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2005) provides:

5. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a 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.

Here the claimant did not participate in the hearing through no fault of the claimant. Although he substantially complied with the notice instructions by providing a telephone number, he mistakenly assumed in good faith that his continuance request would be granted and a new date would be set. Unbeknownst to him, the originally scheduled hearing was held. Under these circumstances, we find good cause for the claimant's nonparticipation. We, therefore, shall remand this matter for a new hearing before an administrative law judge.

**DECISION:**

The decision of the administrative law judge dated October 2, 2007 is not vacated. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

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Elizabeth L. Seiser

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Mary Ann Spicer

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John A. Peno

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