

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

BRANDON E MONTELONGO
Claimant

APPEAL NO: 19R-UI-02237-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PERSONNEL STAFFING GROUP LLC
Employer

**OC: 12/23/18
Claimant: Appellant (5)**

Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(26) – Availability Disqualifications/Same Hours and Wages I

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 25, 2019, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 13, 2019. The claimant participated personally. The employer participated through Peggy Abrams. Stacy Navarro, human resources coordinator, testified. The administrative law judge affirmed the lower decision which denied benefits to the claimant. See 19A-UI-00861-JC-T.

The claimant appealed the decision to the Employment Appeal Board, who remanded the matter for clarification of which employer the claimant was no longer partially unemployed from, and which employer he was working for when he filed for unemployment benefits. See 19B-UI-00861.

After due notice was issued, a hearing was scheduled to be held on April 1, 2019. The employer submitted a letter prior to the hearing stating it would not be participating. The claimant/appellant, Brandon E. Montelongo, did not respond to the hearing notice and did not participate. Because the Employment Appeal Board did not vacate the original appeal decision number 19A-UI-00861-JC-T, that hearing record is adopted and incorporated herein.

ISSUE:

Should the original appeal hearing decision be adopted?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The parties were properly notified of the scheduled hearing for this appeal, which was scheduled based upon the claimant's appeal to the Employment Appeal Board.

The claimant/appellant, Brandon E. Montelongo, failed to register a telephone number to be called at the time scheduled for this appeal hearing as required by the hearing notice. The claimant/appellant did not request a postponement of the hearing. No hearing was held.

The hearing notice instruction specifically advised the parties:

Date: MON APR 01, 2019
Iowa Time: 2:00 p.m.

IMPORTANT NOTICE!

YOU MUST PROVIDE YOUR PHONE NUMBER TO THE APPEALS BUREAU AS SOON AS POSSIBLE. If you do not follow these instructions, the judge will not call you for the hearing.

The back page of the hearing notice provided further instruction and warning:

Register/Appeal Hearing Procedure

You must register a phone number for each hearing by following the instructions on the front of this notice.

Failure to Participate

If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence. The Appeals Bureau does not have a phone number for this hearing unless you provide it to us by following the instructions on the other side of this page. If you do not follow those instructions the judge will not call you for the hearing. 871 IAC 26.14(7).

The agency and subsequent appeals hearing decision concluded that the claimant was ineligible for unemployment insurance benefits. Inasmuch as the hearing decision was not vacated as a result of the Employment Appeal Board remand, the original appeal decision number 19A-UI-00861-JC-T, that hearing record is adopted and incorporated herein.

DECISION:

The claimant/appellant is in default and the appeal is modified with no change in effect. Inasmuch as the hearing decision was not vacated as a result of the Employment Appeal Board remand, the original appeal decision number 19A-UI-00861-JC-T, that hearing record is adopted and incorporated herein. (As a result, the January 25, 2019, (reference 03) unemployment insurance decision is affirmed.)

The administrative law judge's decision for Appeal number 19A-UI-00861-JC-T is also affirmed. The claimant is not partially unemployed and benefits are denied. If the circumstances change and claimant believes the disqualification can be removed, he should contact Iowa Workforce Development.

Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

Decision Dated and Mailed

jlb/scn