

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**LOYD W WARD JR
11 JEFF DR
MUSCATINE IA 52761**

**ROLLING OATS LTD
PO BOX 83
MUSCATINE IA 52761-0083**

**Appeal Number: 05A-UI-07142-RT
OC: 06-19-05 R: 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

The claimant, Loyd W. Ward, Jr., filed a timely appeal from an unemployment insurance decision dated July 7, 2005, reference 01, denying unemployment insurance benefits to him. Due notice was issued for a telephone hearing on July 27, 2005, at 3:00 p.m. The claimant, the appellant herein, did not call in a telephone number where he or any of his witnesses could be reached for the hearing. Rhonda Leonard, the representative for the employer, Rolling Oats Ltd., was available when called. Rather than conduct a hearing, Ms. Leonard agreed to rest upon the record in the administrative file. Consequently, no hearing was held. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having examined the record, the administrative law judge finds: An authorized representative of Iowa Workforce Development issued a decision in this matter on July 7, 2005, reference 01, determining that the claimant was not eligible to receive unemployment insurance benefits, because his driver's license was suspended and he was required to have a driver's license for his job. The claimant appealed this decision. An appeal hearing was scheduled for July 27, 2005, at 3:00 p.m. and a notice of such hearing was sent to the claimant at his last-known address. The claimant failed to provide a telephone number where he or any of his witnesses could be reached for the hearing. The employer's witness was available but consented to rely upon the record in the administrative file. No hearing was held. The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment insurance decision should be affirmed. The claimant filed for unemployment insurance benefits effective June 19, 2005, but only filed three weekly claims and received no unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the record in the administrative file supports the decision by an authorized representative denying unemployment insurance benefits to the claimant and therefore the claimant's separation from his employment was a disqualifying event. The record, including the administrative file, supports the decision by the authorized representative of Iowa Workforce Development denying the claimant benefits, and the claimant's separation from employment was a disqualifying event.

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

The administrative law judge has carefully reviewed the evidence in the record, including the administrative file, and concludes that the unemployment insurance decision previously entered in this case denying the claimant unemployment insurance benefits is correct and should be

affirmed. Pursuant to the rule, the appellant must make a written request to the administrative law judge that the record be reopened and a hearing rescheduled within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the beginning of this decision and must explain the emergency or other good cause that prevented the claimant/appellant from participating in the hearing at its scheduled time.

DECISION:

The representative's decision of July 7, 2005, reference 01, is affirmed. The decision disqualifying the claimant from receiving unemployment insurance benefits remains in effect. This decision will become final unless a written request establishing good cause to reopen the record and reschedule a hearing is made to the administrative law judge within 15 days of the date of this decision.

kjw/kjw