

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JAVAN J AIMABLE**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 19A-UI-03663-CL**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/31/19**  
**Claimant: Appellant (6)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.2(1)e – Notice to Report  
Iowa Admin. Code r. 871-24.23(11) – Failure to Report  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

Claimant/appellant filed an appeal from the April 26, 2019, (reference 03) unemployment insurance decision that denied benefits based on claimant's failure to report to the department as directed. Notices of hearing were mailed to the parties' last known addresses of record for a hearing scheduled in Dubuque, Iowa, for July 11, 2019, at 11:05 a.m. The appellant failed to appear at the time and place specified on the hearing notice and no hearing was held.

**ISSUE:**

Should the appeal be dismissed based on the appellant's failure to appear and participate?

**FINDINGS OF FACT:**

The appellant was properly notified of the scheduled hearing for this appeal. The appellant did not appear for the scheduled hearing at the specified time and place.

The hearing notice instruction specifically advises parties of the date, time, and location of the hearing. It also states:

**IMPORTANT!**

When you arrive at the hearing location, do not wait in line. You should immediately ask workforce center staff where to go for the hearing. On the scheduled date, you must be present at the location identified above and ready to participate in the hearing at the scheduled time. If you or one of your witnesses needs an interpreter, you should notify the Appeals Bureau immediately so that the Appeals Bureau can arrange for an interpreter for the hearing.

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

**Failure to Participate or Register for Appeal Hearing**

If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence. You can ask to participate in the in-person hearing via telephone. 871 IAC 26.6(4).

The information quoted above also appears on the hearing notice in Spanish.

As a courtesy to the appellant the record was left open for a minimum grace period of 30 minutes after the hearing start time to give the appellant a reasonable opportunity to participate. Holding the appellant in default for failure to appear and participate during a 30-minute window after the hearing start time is reasonable.

The representative's decision denied benefits based on claimant's failure to report to the department as directed.

**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.

Iowa Admin. Code r. 871-26.14(6) provides:

(6) If one or more parties which received notice for a contested case hearing fail to appear at the time and place of an in-person hearing, the presiding officer may proceed with the hearing. If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal. The hearing may be reopened if the absent party makes a request in writing to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party arrives for an in-person hearing while the hearing is in session, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party arrives for an in-person hearing after the record has been closed and after any party which had participated in the hearing has departed, the presiding officer shall not take the evidence of the late party.

If the appellant disagrees with this decision, a written request to reopen the record must be made to the administrative law judge 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 end of this decision and must explain the good cause reason that prevented the appellant from participating in the hearing at the scheduled time. The appellant also has the option to appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

**DECISION:**

The April 26, 2019, (reference 03) unemployment insurance decision denying benefits remains in effect as the appellant is in default and the appeal is dismissed.

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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

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Decision Dated and Mailed

cal/scn