

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ENETA N HAMID
Claimant

WINDSOR WINDOW COMPANY
Employer

APPEAL 22A-UI-11211-AD
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/27/20
Claimant: Appellant (6)

Iowa Code § 96.6(2) – Filing – Timely Appeal
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(6) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

On May 2, 2022, Eneta Hamid (claimant/appellant) filed an appeal from the Iowa Workforce Development (“IWD”) decision dated April 14, 2022 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding that he was discharged on February 16, 2022 for excessive unexcused absenteeism.

Claimant requested an in-person hearing. A notice of hearing was mailed on May 11, 2022 to the parties’ addresses of record for an in-person hearing set for 1 p.m. on May 25, 2022 at the IWD office at 1000 E Grand Ave. in Des Moines, Iowa. The claimant/appellant failed to appear in response to the hearing notice instruction and as such no hearing was held. A grace period was extended to the claimant/appellant before the record was closed.

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 on this appeal. The claimant/appellant requested the in-person hearing, but failed to respond to the hearing notice instruction to appear for the scheduled hearing and did not request a postponement of the hearing. The unemployment insurance decision denied benefits based upon his separation from employment.

The hearing notice instruction specifically advised parties of the date and time of the hearing. It also stated in pertinent part:

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.

As a courtesy to the appellant the record was left open for a minimum of fifteen minutes after the hearing start time to give the appellant a reasonable opportunity to participate.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedure Act at Iowa Code section 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.

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.

In this case, the record was held open fifteen minutes past the scheduled start time to allow the appellant an opportunity to participate. The appellant was granted additional time not required by statute or rule. However, the appellant did not contact the Appeals Bureau or appear for the hearing during the additional time allotted. Therefore, the appellant is in default, the appeal is dismissed, and the representative's decision remains in force and effect.

If the appellant disagrees with this decision, the appellant may appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

DECISION:

The decision dated April 14, 2022 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding that he was discharged on February 16, 2022 for excessive unexcused absenteeism remains in force, as the appellant is in default. The appeal is dismissed.



Andrew B. Duffelmeyer
Administrative Law Judge

May 26, 2022
Decision Dated and Mailed

abd/abd