

IOWA DEPARTMENT OF INSPECTIONS AND  
APPEALS  
Division of Administrative Hearings  
Wallace State Office Building  
Des Moines, Iowa 50319

**Appeal Number: 10IWDUI068**  
**OC: 11/02/2008**  
**Claimant: Appellant (2)**

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**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 Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>TH</sup> 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.

**NADIA MERDANOVIC**  
**2666 OWEN COURT APT. 11**  
**DUBUQUE, IA 52002-1033**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT**  
**INVESTIGATIONS AND RECOVERY**  
**1000 EAST GRAND AVENUE**  
**DES MOINES IA 50319-0209**

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 the department. 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.

DAN ANDERSON, IWD



(Administrative Law Judge)

March 31, 2010

(Decision Dated & Mailed)

---

Iowa Code section 17A.12(3) – Default  
871 Iowa Administrative Code 26.14(6)-(7) – Failure to Appear

### STATEMENT OF THE CASE

The claimant filed an appeal of a representative's decision dated November 9, 2009, reference 03. Iowa Workforce Development ("IWD") transferred the case to the Iowa Department of Inspections and Appeals on February 22, 2010 to schedule a contested case hearing. A Notice of Telephone Hearing was mailed to all parties on February 23, 2010 scheduling a hearing date of March 10, 2010 at 1:00 p.m. The Notice of Telephone Hearing contained instructions regarding how to participate in the telephone hearing. Neither party called to participate in the hearing. Approximately fifty minutes after the scheduled time for the hearing, Claimant Nadia Merdanovic called and stated she had a

technical problem with the conference call system. I found the hearing should be continued.

A Rescheduled Notice of Telephone Hearing was mailed to all parties on March 11, 2010, scheduling a hearing date of March 31, 2010 at 8:15 a.m. The Rescheduled Notice of Telephone Hearing again contained instructions regarding how to participate in the telephone hearing. Merdanovic called in to participate in the hearing. No representative from IWD called in to participate in the hearing.

The Iowa Administrative Procedure Act provides that if a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may enter a default decision against the party failing to appear.<sup>1</sup> IWD's rules provide the presiding officer with discretion regarding whether to proceed with a hearing in the absence of one or more of the parties.<sup>2</sup> IWD received proper notice of the hearing and elected not to participate. A default decision is entered against the IWD.

### **DECISION**

A default decision is entered against Iowa Workforce Development after its failure to appear for the March 31, 2010 hearing. The November 9, 2009 decision under appeal, determining that the claimant was overpaid \$1,141 in unemployment insurance benefits, is REVERSED. The claimant was not overpaid unemployment benefits. Iowa Workforce Development shall take any action necessary to implement this decision.

hlp

---

<sup>1</sup> Iowa Code § 17A.12(3).

<sup>2</sup> 871 Iowa Administrative Code 26.14(6)-(7).