

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSEE HEDEEN
Claimant

APPEAL 18A-UI-11125-NM

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 10/07/18
Claimant: Appellant (6)

Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(6) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated November 8, 2018, (reference 04) that found claimant was overpaid \$942.00 in unemployment benefits. Notice of hearing was mailed to the claimant's last known address of record for a hearing to be held in Fort Dodge, Iowa, at 10:05 a.m. on December 19, 2018. The claimant/appellant failed to appear in response to the hearing notice instruction and no hearing was held.

ISSUE:

Should the appeal be dismissed based upon the appellant not responding to the hearing notice instruction and not appearing for the scheduled hearing?

FINDINGS OF FACT:

The party was properly notified of the scheduled hearing on this appeal. The appellant requested the in-person hearing, claimant failed to respond to the hearing notice instruction to appear for the scheduled hearing at 3 Triton Circle, Fort Dodge, Iowa, at the scheduled hearing start time of 10:05 a.m. and did not request a postponement of the hearing. The unemployment insurance decision concluded that the claimant/appellant was overpaid \$942.00 in unemployment insurance benefits for the three week period ending November 3, 2018.

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.

The appellant appealed the unemployment insurance decision but failed to appear to participate in the hearing. The appellant has therefore defaulted on the appeal pursuant to Iowa Code section 17A.12(3) and Iowa Admin. Code r. 871-26.14(6), and the unemployment insurance decision remains in force and effect.

DECISION:

The appellant is in default and the appeal is dismissed. The unemployment insurance decision dated November 8, 2018, (reference 04), finding claimant was overpaid benefits remains in effect.

Nicole Merrill
Administrative Law Judge
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Decision Dated and Mailed

nm/rvs