

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**MARK D HARTMAN**

Claimant

**HEARING NUMBER: 18BUI-01574**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**SECTION:** 10A.601 Employment Appeal Board Review

**D E C I S I O N**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed February 8, 2018. The notice set a hearing for February 27, 2018. The Claimant contacted the agency to provide a telephone number at which he could be reached for the hearing. On the day of the hearing, however, the Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because he had to request for postponement due to receiving word of new employment that was to begin on the day of the hearing. The Claimant did not receive a response from the administrative law judge and did not know the hearing was still taking place.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2015) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

871 IAC 26.8(2) provides:

A hearing may be postponed by the presiding officer for good cause, either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement may be in writing or oral, provided the oral request is tape-recorded by the presiding officer, and is made not less than three days prior to the

scheduled hearing. A party shall not be granted more than one postponement except in the case of extreme emergency.

Here the Claimant did not participate in the hearing through no fault of the Claimant. He did not participate because he started new employment and would not be available on the original hearing date. The Claimant complied with the notice by providing his telephone number, which established his intention to follow through with the appeal process. When it became known that he would not be available, he immediately sought a postponement. The Claimant has established good cause for his nonparticipation. For this reason, the matter will be remanded for another hearing before an administrative law judge.

**DECISION:**

The decision of the administrative law judge dated February 28, 2018 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

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Kim D. Schmett

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Ashley R. Koopmans

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James M. Strohman

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