

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**ERIN M BARTOLOTTA**  
Claimant

**APPEAL NO. 15A-UI-02085-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 12/15/13  
Claimant: Appellant (6)**

Iowa Code § 17A.12(3) – Default Decision  
871 IAC 26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

The claimant appealed a representative's February 12, 2015 determination (reference 05) that stated a previously established overpayment would be withheld from her Iowa income tax refund. A notice of hearing was mailed to the claimant's last-known address of record informing her that a telephone hearing would be held on March 24, 2015, at 9:30 a.m. A review of the Appeals Bureau's conference call system shows the claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing. The claimant did not participate in the hearing.

**ISSUE:**

Should the appeal be dismissed when the appellant does not participate in the hearing?

**FINDINGS OF FACT:**

The claimant was properly notified of the scheduled hearing on this appeal. The claimant failed to provide a telephone number at which she could be reached for the hearing. She did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The representative's February 12, 2015 determination concluded a previously established overpayment would be withheld from the claimant's Iowa income tax refund.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedures 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.

The Agency rules at 871 IAC 26.14(7) provide that if the appealing party has not responded to a notice of telephone hearing by providing the Appeals Bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rules further state that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. 871 IAC 26.14(7)c.

The claimant appealed the representative's February 12, 2015 determination but failed to participate in the hearing. The claimant defaulted on her appeal. Based on Iowa Code § 17A.12(3) and 871 IAC 24.14(7), the representative's determination remains in full force and effect.

If the claimant disagrees with this decision, a request must be made to the administrative law judge that the hearing be reopened 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 emergency or other good cause that prevented the claimant from participating in the hearing at its scheduled time.

**DECISION:**

The representative's February 12, 2015 determination (reference 05) is affirmed. A previously established overpayment can be withheld from the claimant's Iowa income tax refund.

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Debra L. Wise  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
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Decision Dated and Mailed

dlw/pjs