

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

AUGUSTUS SULLIVAN

Claimant

and

HY-VEE INC

Employer

HEARING NUMBER: 18BUI-05308

**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 May 9, 2018. The notice set a hearing for May 25, 2018. The Claimant contacted the agency by registering his witnesses for the hearing, and assumed he was registered as well. On the day of the hearing, he didn't receive a call to participate. When he called in to inquire, the record was closed.

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.

Here the Claimant did not participate in the hearing because he mistakenly understood that the registration of his witnesses automatically included his own registration. By the time he made contact with the administrative law judge, the hearing was already over. The Claimant has established his intention to follow through with the appeal process, and he has shown good cause for his nonparticipation. For this reason, the matter will be remanded for another hearing before an administrative law judge.

05308

DECISION:

The decision of the administrative law judge dated May 30, 2018 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. 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.

Kim D. Schmett

James M. Strohman

AMG/fnv