

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

DANIEL P HEINDL

Claimant

and

HYPONEX CORPORATION

Employer

HEARING NUMBER: 17BUI-09463

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed September 18, 2017. The notice set a hearing for October 2, 2017. The Claimant contacted the agency just minutes (12 minutes) after the hearing commenced to provide a telephone number where he could be reached for the hearing. It appears that Iowa Workforce Development personnel mistakenly took down the wrong number. When the administrative law judge called the incorrect number several times, there was no answer. She believed the Claimant did not respond and entered a default judgement.

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 had not, initially, provided a telephone number for the administrative law judge to call. Just 12 minutes after the start of the hearing, the Claimant called in his number, which was mistakenly taken down so that the administrative law judge's call did not reach him. The Claimant contacted the administrative law judge within a reasonable timeframe after the scheduled hearing time,

which established his intention to follow through with the appeals process. He did not know the administrative law judge had attempted to call him. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Claimant may avail himself of his due process right.

We caution the Claimant that, barring exceptional circumstances, we will not again excuse a failure to call in a number where the Claimant could be reached.

DECISION:

The decision of the administrative law judge dated October 2, 2017 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

Ashley R. Koopmans

James M. Strohman

AMG/fnv