

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRUCE E HARRIS**  
Claimant

**APPEAL NO: 15A-UI-04792-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DURHAM D & M LLC**  
Employer

**OC: 02/15/15**  
**Claimant: Appellant (6)**

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

**STATEMENT OF THE CASE:**

Bruce Harris filed a late appeal from the April 6, 2015, reference 01, unemployment insurance decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on an Agency conclusion that Mr. Harris had voluntarily quit on May 1, 2014 without good cause attributable to the employer. Notices of hearing were mailed to the parties' last-known addresses of record for a telephone hearing to be held at 10:00 a.m. on May 29, 2015. A review of the Appeals Bureau's conference call system indicates that the claimant/appellant failed to respond to the hearing notice instructions to provide a telephone number at which he could be reached for the hearing. The employer also did not provide a telephone number for the hearing. Based upon the claimant/appellant's failure to participate in the hearing and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

**ISSUES:**

Should the appeal be dismissed based upon the claimant/appellant not participating in the hearing?

Has the claimant/appellant provided good cause to reopen the hearing record.

**FINDINGS OF FACT:**

Bruce Harris is the claimant and appellant in this matter and in another matter, both of which were set for appeal hearing on May 29, 2015. The hearing in this matter was set for 10:00 a.m. the hearing in the other matter was set for 11:00 a.m. On April 24, 2015, the Appeals Bureau mailed notice to Mr. Harris and to the employer regarding both hearings. Each notice contained clear and concise instructions regarding the need to contact the Appeals Bureau to provide a telephone number for the Appeal Hearing. Mr. Harris received notice of both hearings on or about April 25, 2015. Mr. Harris had previously been in contact with the local Workforce Development Center and had provided that office with contact information. After Mr. Harris received the appeal hearing notices, he read, but disregarded, the instructions to provide a telephone number to the Appeals Bureau. Instead, he returned to the local Workforce

Development to confirm that that office had his contact information. Mr. Harris did not tell the Workforce Development Center staff that he was responding to the appeal hearing notices or that he was confirming his contact information for the purpose of participating in an appeal hearing. The administrative law judge did not call Mr. Harris for the 10:00 a.m. hearing or the 11:00 a.m., hearing because Mr. Harris had not provided a number for the hearing. During the noon hour on May 29, Mr. Harris reviewed the appeal hearing notices and then telephoned the Appeals Bureau regarding the hearings he had missed. When Mr. Harris had to wait on the line for assistance, he disconnected and tried again after 1:00 p.m. At 1:43 p.m. Mr. Harris spoke to a clerk in the Appeals Bureau and provided a telephone number where he could be contacted. The administrative law judge immediately returned the call and discussed with Mr. Harris the basis for his absence from the hearings set at 10:00 a.m. and 11:00 a.m.

The April 6, 2015, reference 01, unemployment insurance decision disqualified Mr. Harris for benefits and relieved the employer of liability for benefits, based on an Agency conclusion that Mr. Harris had voluntarily quit on May 1, 2014 without good cause attributable to the employer.

### **REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedures Act at Iowa Code § 17A.12(3) provides in pertinent part:

If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and make a decision in the absence of the party. ... If a decision is rendered against a party who failed to appear for the hearing and the presiding officer is timely requested by that party to vacate the decision for good cause, the time for initiating a further appeal is stayed pending a determination by the presiding officer to grant or deny the request. If adequate reasons are provided showing good cause for the party's failure to appear, the presiding officer shall vacate the decision and, after proper service of notice, conduct another evidentiary hearing. If adequate reasons are not provided showing good cause for the party's failure to appear, the presiding officer shall deny the motion to vacate.

The Agency rules at Iowa Admin. Code r. 871-26.14(7) provide:

If a 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 presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer 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 under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire ex parte as to why the party was late in responding to the notice of hearing. For good

cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

Mr. Harris appealed the representative's decision, but failed to participate in the hearing as scheduled. Mr. Harris thereby defaulted on his appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the representative's decision remains in force and effect. Mr. Harris' failure to read or follow the hearing notice instructions to provide a telephone number for the hearing does not constitute good cause for reopening the record. The April 6, 2015, reference 01, unemployment insurance decision that disqualified Mr. Harris for benefits and that relieved the employer of liability for benefits, based on May 1, 2014 voluntary quit, remains in effect.

**DECISION:**

The April 6, 2015, reference 01, unemployment insurance decision is affirmed. The claimant defaulted on his appeal and failed to provide good cause to reopen the hearing record. The decision that disqualified the claimant for benefits and that relieved the employer of liability for benefits, based on May 1, 2014 voluntary quit, remains in effect.

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James E. Timberland  
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Decision Dated and Mailed

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