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

CLEMENT MBAMBI	HEARING NUMBER: 20BUI-01216
Claimant	
	EMPLOYMENT APPEAL BOARD
	-

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed February 13, 2020. The notice set a hearing for February 26, 2020. The Claimant contacted the agency and provided a telephone number where he could be reached. However, on the day of the hearing, the Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because unbeknownst to him, the call did not go through, and the matter 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 an 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 did not receive the call due to a malfunction in the transmission of the call. The Claimant established his intention to follow through with the appeals process based on his compliance with the notice instructions by providing his telephone number. Had the Claimant received the call, he was available to participate, but for the malfunction. 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.

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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 February 27, 2020 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.

Ashley R. Koopmans

James M. Strohman

AMG/fnv

Kim D. Schmett