

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

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**ROSALIE A GILMORE**

Claimant,

and

**A & N OF RIVER CITY INC**

Employer.

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**HEARING NUMBER: 08B-UI-04996**

**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 28, 2008. The notice set a hearing for June 10, 2008. The employer did not appear for or participate in the hearing. The reason the employer did not appear is because the employer "... was closed or five days due to flooding in the city and because of city water contamination issues..." The employer was unable to participate.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2005) provides:

5. 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 employer did not participate in the hearing through no fault of the employer. The employer was unable to participate due to emergency circumstances, i.e., flood disaster. For this reason, we conclude that the employer has established good cause for his nonparticipation. Therefore, this matter shall be remanded for another hearing before an administrative law judge.

**DECISION:**

The decision of the administrative law judge dated June 11, 2008 is not vacated. 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.

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John A. Peno

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Elizabeth L. Seiser

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Monique F. Kuester

AMG/ss