

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

MICHAEL J ALLEN

Claimant

: **APPEAL NUMBER:** 22B-UI-15378

: **ALJ HEARING NUMBER:** 22A-UI-15378

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: **EMPLOYMENT APPEAL BOARD
DECISION**

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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 August 8, 2022. The notice set a hearing for August 29, 2022. The Claimant called the pin number provided several minutes prior to the start of his hearing, but was unable to get through. After a repeated attempt, he was still unable to gain access to the administrative law.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2022) 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 was unable to access the administrative law judge using the pin provided on the Notice of Hearing. The Claimant tried to comply with the notice instructions, but was unable due to no fault of his own. Based on this circumstance, we find the Claimant has provided good cause for his nonparticipation. 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 participate in the hearing as scheduled.

DECISION:

The decision of the administrative law judge dated October 3, 2022 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 who shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Please note the way you appear at the hearing has changed. When you receive the Notice of Hearing, please read and follow the instructions carefully.

James M. Strohman

Ashley R. Koopmans

DISSENTING OPINION OF MYRON R. LINN:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would not remand this matter based on what I consider to be the Claimant's failure to provide good cause to do so.

Myron R. Linn

AMG/fnv