

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

ASHLEY K RUSSELL

Claimant

and

DOLLAR TREE STORES INC

Employer

HEARING NUMBER: 20BUI-01268

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed February 14, 2020. The notice set a hearing for February 27, 2020. The Claimant contacted the agency to provide a telephone number to be called for the hearing. On the day of the hearing, however, the Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because she received a call from the police indicating her 14-year old daughter had been found in Alabama, and she needed to pick her up. The Claimant contacted the agency to explain the situation and requested a postponement that was denied.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2019) 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 due to extraordinary and unforeseeable circumstances for which she was unable to get a postponement. The Claimant complied with the notice instructions by providing her telephone number. She has demonstrated her intention to follow through with the process, and provided good cause for her nonparticipation. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Claimant may avail herself of her due process right.

01268

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 28, 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

Kim D. Schmett

AMG/fnv