

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

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RUSSELL D ROBINSON

Claimant,

and

AMERICANA COMPANIES INC

Employer.

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HEARING NUMBER: 09B-UI-13426

EMPLOYMENT APPEAL BOARD  
DECISION

**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 10A.601 Employment Appeal Board Review

**DECISION**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed September 14, 2009. The notice set a hearing for October 5, 2009. The claimant contacted the agency to change the original number he provided to participate in the hearing. He arranged to participate by phone at the local office. On the day of the hearing, he did not appear for or participate in the hearing. The reason the claimant did not appear is because there was a communication mix-up, and the administrative law judge did not call him at the local agency number he provided. When he called in after realizing he didn't get a call, the record had been closed.



## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2009) 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 through no fault of the claimant. The claimant complied with the notice instructions by providing a number where he could be reached. For some unknown reason, there was a mix-up regarding his information and he was never called at the local office number. Based on these circumstances, we conclude that good cause was established for his non-participation. For this reason, the matter will be remanded for another hearing before an administrative law judge.

## DECISION:

The decision of the administrative law judge dated October 7, 2009 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

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