JESSIE C CKAPPELMAN Claimant	**APPEAL 21A-UI-19711-JC-T** **ADMINISTRATIVE LAW JUDGE DECISION**
PELLA CORPORATION Employer	
	OC: 07/18/21 **Claimant: Appellant (6)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

Claimant filed an appeal from the September 2, 2021, (reference 01) unemployment insurance decision that denied benefits. Iowa Workforce Development mailed a notice of hearing to claimant's last address of record. The hearing was scheduled for October 28, 2021, at 1:00 p.m. Claimant did not provide a telephone number to the Appeals Bureau prior to the scheduled hearing. No hearing was held.

ISSUE:

Should the appeal be dismissed based on the appellant's failure to appear and participate?

FINDINGS OF FACT:

Iowa Workforce Development notified claimant of the hearing. The claimant did not respond to the hearing notice or otherwise provide a telephone number to the Appeals Bureau. Claimant did not participate in the hearing or request a postponement. Claimant did not follow the instructions on the hearing notice. Official notice is taken of the hearing control screen to establish that claimant did not provide a telephone number to the Appeals Bureau prior to the time of the scheduled hearing.

The hearing notice instruction specifically advises claimant of the date and time of the hearing. It also states:

IMPORTANT NOTICE!
YOU MUST PROVIDE YOUR PHONE NUMBER TO THE APPEALS BUREAU AS SOON AS POSSIBLE. If you do not follow these instructions, the judge will not call you for the hearing. You must also provide the name(s) and phone number(s) of any witnesses to the Appeals Bureau.

The back page of the hearing notice provides further instruction and warning:

Failure to Participate or Register for Appeal Hearing
If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence. The Appeals Bureau does not have a phone number for this hearing unless you provide it to us by following the instructions on the other side of this page. If you do not follow those instructions, the judge will not call you for the hearing. 871 IAC 26.14(7).

The information quoted above also appears on the hearing notice in Spanish.

As a courtesy to the claimant, the administrative law judge left the record open for 15 minutes past the scheduled time of the hearing to give the claimant a reasonable amount of time to call the Appeals Bureau to participate. Claimant did not contact the Appeals Bureau or otherwise register for the hearing during that time period.

The initial unemployment insurance decision denied benefits.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party.

Iowa Admin. Code r. 871-26.14(7) provides, in relevant part:

> (7) If a party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provide in Iowa Code section 17A.12(3).

In this case, claimant failed to provide a telephone number to the Appeals Bureau prior to the scheduled hearing. Claimant is in default and the appeal is dismissed.

If the claimant disagrees with this decision, the claimant may appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

DECISION:

The September 2, 2021, (reference 01) unemployment insurance decision denying benefits remains in effect as the appellant is in default.

Jennifer L. Beckman

_____
Jennifer L. Beckman
Administrative Law Judge

Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

November 15, 2021
Decision Dated and Mailed

jlb/ol

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at https://www.iowaworkforcedevelopment.gov/pua-information. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and.

You may find information about food, housing, and other resources at https://covidrecoveryiowa.org/ or at https://dhs.iowa.gov/node/3250

Iowa Finance Authority also has additional resources at
https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/