

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

KATIE M MORRISON

Claimant

and

OMEGA FOODS INC

Employer

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HEARING NUMBER: 16B-UI-12273

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

STATEMENT OF THE CASE:

The issue of timeliness was raised when the Claimant filed an appeal that was e-mailed to Iowa Workforce Development on December 19, 2015, nearly two weeks beyond the statutory deadline of December 7, 2015. The reason for the delay was because the Claimant is did not have a reliable address due to homelessness. For this reason, we find good cause has been established for the late appeal, and the board shall consider it to be timely.

FINDINGS OF FACT:

The notice of hearing in this matter was mailed November 9, 2015. The notice set a hearing for November 20, 2015. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Claimant is homeless and does not currently have a permanent address. She did not timely receive the Notice of Hearing. The Claimant did not know the hearing was taking place.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2015) provides:

4. 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 Claimant did not participate in the hearing through no fault of the Claimant. The Claimant did not participate because the Claimant did not timely receive the Notice of Hearing and did not know that a hearing was taking place. For this reason, the matter will be remanded for another hearing before an administrative law judge.

We caution the Claimant that, barring exceptional circumstances, we will not again excuse a failure to participate due to having no reliable mailing address. In the future, the Claimant may contact her local post office to obtain a "General Delivery" status so that she can have her mail delivered to the post office for easy pick-up. In addition, the Claimant may go to her nearest local Workforce office to gain access to a phone for use during the hearing. Please note that the Claimant must make *prior* arrangements with Workforce (once she receives the new Notice of Hearing) to obtain the correct phone number to be used in the hearing, which must be called in according to the instructions on the Notice of Hearing.

DECISION:

The decision of the administrative law judge dated November 20, 2015 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau. 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.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv

DATED AND MAILED: _____

Copies to:

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