

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

JUAN R MARTINEZ

Claimant

APPEAL NO: 14A-UI-01638-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACTION WAREHOUSE COMPANY LTD

Employer

OC: 01/19/14

Claimant: Respondent (6)

Iowa Code § 17A.12(3) - Default Decision

Iowa Admin. Code r. 871-26.14(7) - Dismissal of Appeal on Default

STATEMENT OF THE CASE:

An appeal was filed from a representative's unemployment insurance decision dated February 10, 2014, (reference 01) that concluded Juan Martinez (claimant/respondent) was eligible for unemployment insurance benefits after a separation from employment from Action Warehouse Company (employer/appellant). Notices of hearing were mailed to the parties' last-known addresses of record for a telephone hearing to be held at 11:00 a.m. on March 6, 2014. A review of the Appeals Bureau's conference call system indicates that the employer/appellant was not available at the telephone number provided for the hearing and did not participate in the hearing. Based upon the appellant's failure to participate in the hearing and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

The issue is whether the appeal should be dismissed based upon the employer/appellant's failure to participate in the hearing.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The employer/appellant was not available at the telephone number provided for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The unemployment insurance decision had concluded that the claimant/respondent was eligible for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedures 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. The

statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

The Agency rules at Iowa Admin. Code r. 871-26.14(7) provide that if the appealing 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 judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rules further states that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. Iowa Admin. Code r. 871-26.14(7)c.

The employer/appellant appealed the unemployment insurance decision but failed to participate in the scheduled appeal hearing. The employer/appellant has therefore defaulted on the appeal pursuant to Iowa Code §17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the representative's decision remains in force and effect.

If the appellant disagrees with this decision, pursuant to the rule, the appellant must make a written request to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time. The appellant also has the option to appeal the decision directly to the Employment Appeal Board, whose address is listed at the beginning of the decision.

DECISION:

The representative's unemployment insurance decision dated February 10, 2014, (reference 01) is affirmed. The decision granting benefits remains in effect.

Beth A. Scheetz
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-242-5144

Decision Dated and Mailed

bas/pjs