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

KENDALL V SHETH	HEARING NUMBER: 17BUI-03005
Claimant	
and	EMPLOYMENT APPEAL BOARD
MIDWEST STAINLESS TECH	

Employer

SECTION: 10A.601 Employment Appeal Board Review

# DECISION

## FINDINGS OF FACT:

The notice of hearing in this matter was mailed March 20, 2017. The notice set a hearing for April 11, 2017. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because he took his appeal to the local office and provided his telephone number to personnel at that office. He was told all he had to do at that point was to be available on the date and at the time shown on the notice. The Claimant did not know the hearing was taking place when he didn't receive a call.

### **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 he relied in good faith on the reassurance from the local office that when he submitted his appeal and number to local office personnel, he satisfied the registration requirements to gain access to the hearing. Based on these circumstances, the

Board finds good cause for the Claimant's nonparticipation. 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 April 11, 2017 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.

Kim D. Schmett

Ashley R. Koopmans

AMG/fnv

James M. Strohman