

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LEON JONES**  
Claimant

**JOSEPH L ERTL INC**  
Employer

**APPEAL 19A-UI-05223-JC**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/26/19  
Claimant: Appellant (6)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(6) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

Claimant, Leon Jones, filed an appeal from an unemployment insurance decision dated June 14, 2019, (reference 01) that denied benefits based upon separation with this employer. Notice of hearing was mailed to the last known addresses of record for a hearing to be held in Dubuque, Iowa, at 9:30 a.m. on September 11, 2019. Although duly notified, Claimant did not respond to the Notice of Hearing and did not appear at the in-person hearing that had been requested.

**ISSUE:**

Should the appeal be dismissed based upon the appellant not responding to the hearing notice instruction and not appearing for the scheduled hearing?

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. The claimant/appellant failed to appear at the in-person hearing that had been requested and did not request a postponement of the hearing as required by the hearing notice. The initial decision concluded that the claimant was disqualified from unemployment insurance benefits.

The hearing notice included the date, time and location, and specifically advises parties:

Date: WED SEP 11, 2019  
Iowa Time: 9:30 a.m.  
Location: 680 Main St, 2nd Floor  
Dubuque, Iowa 52001-6818

**Important!**

When you arrive at the hearing location, do not wait in line. You should immediately ask workforce center staff where to go for the hearing. On the scheduled date, you must be

present at the location identified above and ready to participate in the hearing at the scheduled time. If you or one of your witnesses needs an interpreter, you should notify the Appeals Bureau immediately so that the Appeals Bureau can arrange for an interpreter to be at the hearing.

The back of the hearing notice includes this information:

**Failure to Participate**

If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence or witness(es).

As a *courtesy* to the appellant the record was left open for a 30-minute grace period after the hearing start time to give the appellant a *reasonable* opportunity to participate. Holding the appellant in default for failure to appear and participate is reasonable considering the time allocated for each unemployment hearing.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code section 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(6) provides:

**(6)** If one or more parties which received notice for a contested case hearing fail to appear at the time and place of an in-person hearing, the presiding officer may proceed with the hearing. If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal. The hearing may be reopened if the absent party makes a request in writing to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party arrives for an in-person hearing while the hearing is in session, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party arrives for an in-person hearing after the record has been closed and after any party which had participated in the hearing has departed, the presiding officer shall not take the evidence of the late party.

The appellant appealed the unemployment insurance decision but failed to appear to participate in the hearing. The appellant has therefore defaulted on the appeal pursuant to Iowa Code section 17A.12(3) and Iowa Admin. Code r. 871-26.14(6), and the unemployment insurance decision remains in force and effect.

**DECISION:**

The appellant is in default and the appeal is dismissed. The unemployment insurance decision dated June 14, 2019, (reference 01) denying benefits remains in effect.

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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

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Decision Dated and Mailed

jlb/scn