

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LUIS RUIZ
Claimant

APPEAL 20A-DUA-00185-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/17/20
Claimant: Appellant (6)

PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance
20 CFR 625 – Disaster Unemployment Assistance
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

On August 17, 2020, the claimant filed a timely appeal from the Iowa Workforce Development decision dated August 5, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) benefits. Iowa Workforce Development mailed a notice of hearing to claimant's last address of record. The hearing was scheduled for September 28, 2020, at 8:00 a.m.

The appellant registered a phone number with the Appeals Bureau as directed on the hearing notice, but was not available when called for the hearing. A voicemail was provided, directing the appellant to call the Appeals Bureau immediately to participate. A second voicemail was also provided in Spanish through a CTS Language Link interpreter. A grace period was extended to allow the appellant to respond before the record was closed. No hearing was held.

ISSUE:

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

FINDINGS OF FACT:

The claimant was properly notified of the scheduled hearing for this appeal. The claimant/appellant, Luis Ruiz, failed to be available when called at the time scheduled for this appeal hearing as required by the hearing notice. The claimant/appellant did not request a postponement of the hearing. No hearing was held.

The hearing notice instruction specifically advised claimant of the date and time of the hearing. It also stated:

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 provided 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 appeared 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 unemployment insurance decision denied claimant's application for PUA 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 August 5, 2020, (reference 02) unemployment insurance decision denying PUA benefits remains in effect as the appellant is in default.



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

September 29, 2020
Decision Dated and Mailed

jlb/scn