

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHIE J BAKER
Claimant

APPEAL NO. 12A-UI-02193-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AKIN LTD
Employer

OC: 01/22/12
Claimant: Respondent (1)

Section 96.5-2-a – Discharge
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated March 2, 2012, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was scheduled for March 20, 2012. The employer did not participate in the hearing. The claimant participated in the hearing and agreed that a decision could be made based on the information in the administrative file. Based on the employer's failure to participate in the hearing, the administrative file, and the law, the following findings of fact, reasoning and conclusions of law and decision are entered.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The employer failed to provide a telephone number at which a representative could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. After the hearing had concluded, manager Chris Knuth, called the Appeals Bureau at 10:49 a.m. and admitted he had not followed the instructions on the hearing notice that required him to call in and provide his telephone number and was waiting for a call from someone with the Appeals Bureau.

A careful review of the information in the administrative file has been conducted to determine whether the unemployment insurance decision should be affirmed.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance rules provide that when a party who has received due notice is unable to attend a hearing or request postponement within the prescribed time due to emergency or other good cause, the presiding officer may, if no decision has been issued, reopen the record and schedule another hearing. If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record. 871 IAC 26.8(5).

871 IAC 24.14(7)(b) provides:

If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the administrative law judge shall not take the evidence of the late party. Instead, the administrative law judge shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the administrative law judge shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the administrative law judge does not find good cause for the party's late response to the notice of hearing.

The employer has not shown good cause for reopening the hearing in this case since the employer received the notice but did not follow the instructions for participating.

The administrative law judge has carefully reviewed the information in the administrative file in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

DECISION:

The unemployment insurance decision dated March 2, 2012, reference 01, is affirmed. The decision granting benefits remains in effect. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs