

**IOWA WORKFORCE DEVELOPMENT DEPARTMENT
UNEMPLOYMENT INSURANCE APPEALS SECTION
1000 EAST GRAND AVENUE
DES MOINES IA 50319**

**Appeal Number: 06A-UI-03568-DW
OC: 02/26/06 R: 02
Claimant: Respondent**

**KATHLEEN L THOMAS
1910 – 3RD AVE SE
ALTOONA IA 50009 2051**

**A+ LAWN & LANDSCAPING INC
6336 HICKMAN RD #203
DES MOINES IA 50322**

ORDER GRANTING REQUEST TO REOPEN RECORD

On April 19, 2006, an in-person hearing was held in this matter. The claimant appeared for the hearing. At the time of the hearing, the employer was not present.

After the hearing had been closed and the claimant had been excused, the employer appeared for the hearing. The administrative law judge was not immediately informed that the employer had reported for the hearing. After learning the employer was present for the hearing, the administrative law judge taped the employer's explanation as to what happened. The employer made a request to reopen the hearing.

While the employer did not report to the scheduled hearing on time, the employer reported to the hearing location at a reasonable time. Upon reviewing the records maintained by the office and the receptionists' recollection of the events, the employer reported for the hearing late, but within a reasonable time for the hearing to be reopened. The administrative law judge did not receive information as to when the employer first arrived. The employer may have been in another location of the building when the administrative law judge was in the reception area.

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. 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 presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer 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 presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

Based on the above facts, the employer established good cause to reopen the hearing.

It is Ordered that the employer's request to reopen this matter is granted. The parties shall receive a hearing notice informing them when another hearing is scheduled.

Debra L. Wise
Administrative Law Judge

Dated and mailed:

dlw/tjc

Copies to all parties of record.