

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

HAROLD R CRONIN

Claimant

and

REES ASSOCIATES INC

Employer

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HEARING NUMBER: 22B-UI-05537

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed March 24, 2022. The notice set a hearing for April 12, 2022. The Employer did not appear for or participate in the hearing. The reason the Employer did not appear is because she contacted the agency approximately 18 minutes after the start of the scheduled hearing, but the system would not accept her pin number. The Employer could not access the administrative law judge to participate in the hearing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2019) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an 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 Employer did not participate in the hearing because her call would not go through to the administrative law judge. When she entered the pin, she was unable to connect to the administrative law judge, even though she called within a reasonable timeframe after the scheduled hearing time. Based on this circumstance, we find the Employer established her intention to follow through with the appeals process. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Employer may avail herself of her due process right.

We caution the Employer that, barring exceptional circumstances, we will not again excuse a failure to timely call in to participate in the hearing.

DECISION:

The decision of the administrative law judge dated April 26, 2022 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.

Please note the way you appear at the hearing has changed. When you receive the Notice of Hearing, please read and follow the instructions carefully.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

AMG/fnv