BEFORE THE EMPLOYMENT APPEAL BOARD Lucas State Office Building Fourth floor Des Moines, Iowa 50319

:

LADELL G THOMPSON

HEARING NUMBER: 09B-UI-11594

Claimant,

.

and : EMPLOYMENT APPEAL BOARD

DECISION

TYSON FRESH MEATS INC

Employer.

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed December 16, 2008. The notice set a hearing for December 29, 2008. The employer contacted the agency to provide a telephone number at which he could be reached for the hearing, and received a control number of #263. On the day of the hearing, however, the employer did not appear for or participate in the hearing. The reason the employer did not appear is because the employer did not receive a call to participate and did not know the hearing was taking place.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2005) provides:

5. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a 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 through no fault of the employer. The employer complied with the notice instructions in order to participate in the hearing. For some unknown reason, the employer did not receive a call to follow through with the appeal process, and was subsequently

denied	due prod	ess. For	this	reason,	the	matter	will	be	remanded	for	another	hearing	before	an
adminis	strative la													

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DECISION:

The decision of the administrative law judge dated December 29, 2008 is not vacated. 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.

John A. Peno

Elizabeth L. Seiser

AMG/ss