

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building, 4<sup>TH</sup> Floor  
Des Moines, Iowa 50319  
Website: eab.iowa.gov**

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**MARK E HALTOM**

Claimant

and

**BREWER CARPET & DESIGN CENTER  
INC**

Employer

: **APPEAL NUMBER:** 23B-UI-04506

: **ALJ HEARING NUMBER:** 23A-UI-04506

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: **EMPLOYMENT APPEAL BOARD  
DECISION**

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**SECTION:** 10A.601 Employment Appeal Board Review

**DECISION**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed May 3, 2023. The notice set a hearing for May 17, 2023. The Employer did not appear for or participate in the hearing. The reason the Employer did not appear is because the Employer had submitted a request to postpone the hearing on May 8, 2023, as he had a conflict on the hearing date and could not be available. The Employer's request was denied.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2015) provides:

4. 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.

871 IAC 26.8(2) provides:

A hearing may be postponed by the presiding officer for good cause, either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement may be in writing or oral, provided the oral request is tape-recorded by the presiding officer, and is made not less than three days prior to the scheduled hearing. A party shall not be granted more than one postponement except in the case of extreme emergency.

Here the Employer did not participate in the hearing through no fault of the Employer. The Employer did not participate because he could not be available on the original hearing date due to a scheduling conflict. The Employer complied with the aforementioned rule by submitting a postponement request in writing within three days of the hearing. The Employer has established good cause for his nonparticipation and did so in a timely manner. For this reason, the matter will be remanded for another hearing before an administrative law judge.

**DECISION:**

The decision of the administrative law judge dated May 23, 2023 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau. 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.

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James M. Strohman

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Ashley R. Koopmans

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Myron R. Linn

AMG/fnv