

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM G CASWELL
Claimant

APPEAL NO: 14A-UI-11328-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEERFIELD RETIREMENT COMMUNITY
Employer

OC: 09/28/14
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge
871 IAC 26.8(5) - Decision on the Record
871 IAC 26.14(7) – Request to Reopen Hearing

STATEMENT OF THE CASE:

The claimant appealed a representative's October 23, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's exempt from charge because the claimant had been discharged for disqualifying reasons. A telephone hearing was scheduled on November 20 at 1 p.m. The claimant did not respond to the hearing notice by contacting the Appeals Bureau prior to the hearing to provide the phone number he could be contacted at to participate at the hearing. The claimant did not participate in the hearing. Vicki O'Brien appeared on the employer's behalf.

The claimant called the Appeals Bureau at 4 p.m. He then requested that the hearing be reopened. Based on the claimant's request to reopen the hearing, the administrative file and the law, the administrative law judge denies the claimant's request to reopen the hearing and concludes he is not qualified to receive benefits.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The claimant failed to provide a telephone number at which he could be reached for the hearing. The claimant did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The claimant contacted the Appeals Section at 4 p.m. on November 20 to participate at the 1 p.m. scheduled hearing. The claimant assumed the Appeals Bureau knew what phone number to contact him for the hearing. The claimant did not read or follow the instructions on the hearing notice that informed him to either provide his phone number by accessing an internet site or by calling the Appeals Bureau at specified phone numbers. The claimant waited until 4 p.m. to call the Appeals Bureau because he assumed the administrative law judge was running late. The claimant requested that the hearing be reopened.

The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment insurance decision should be affirmed.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The claimant admitted he did not read the hearing notice instructions. Since the law specifically states that failure to read or follow the hearing notice instructions does not constitute good cause to reopen the hearing, the claimant's request to reopen the hearing must be denied.

Iowa Admin. Code r. 871-26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) 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.

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

DECISION:

The claimant's request to reopen the hearing is denied. The representative's October 23, 2014 determination (reference 01) is affirmed. The decision disqualifying the claimant from receiving benefits as of September 28, 2014, remains in effect.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs