

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

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**BRIDGETTE M MILLER**

Claimant

and

**O'REILLY AUTOMOTIVE INC**

Employer

**HEARING NUMBER: 18BUI-11014**

**EMPLOYMENT APPEAL BOARD  
DECISION**

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

**DECISION**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed November 13, 2018. The notice set a hearing for November 28, 2018. The Employer went online to register her contact information on Clear2There. On the day of the hearing, the Employer waited for the call that never came. The reason the administrative law judge did not call was because no information was registered on the Clear2There screen. The Employer did not know the hearing was not held due to her nonparticipation.

**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.

Here the Employer did not participate in the hearing because the Employer apparently did not 'submit' her contact information when she attempted to register for the hearing. It is clear the Employer intended to follow through with her appeal based on the screen shot she submitted to the Board with her appeal. For this reason, we find good cause has been established for the Employer's nonparticipation. The Board shall remand this matter for another hearing before an administrative law judge.

We caution the Employer that, barring exceptional circumstances, we will not again excuse a failure to call in a number where the Employer could be reached.

**DECISION:**

The decision of the administrative law judge dated November 29, 2018 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.

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Kim D. Schmett

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Ashley R. Koopmans

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James M. Strohman

AMG/fnv