

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**RONALD G DIGHTON**  
Claimant

**NORDSTROM INC**  
Employer

**APPEAL NO. 14A-UI-09164-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/03/14**  
**Claimant: Appellant (6)**

Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default  
Iowa Code § 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from a representative's decision dated August 19, 2014, reference 01, that denied benefits. Notices of hearing were mailed to the parties' last-known addresses of record, for a telephone hearing to be held on September 24, 2014 before Administrative Law Judge Julie Elder. Due to the length of the administrative law judge's hearing just prior to this hearing, the parties agreed to move the hearing from September 24, 2014 at 11:00 a.m. to September 26, 2014 at noon.

The claimant/appellant provided a phone number prior to the hearing and answered the phone when called for the hearing as did the employer's witnesses and representative. The claimant and employer's witnesses were on the phone and as the administrative law judge was confirming the employer's witnesses' names and titles, the claimant disconnected upon Stock Control Department Manager Chris Barnes responding to the administrative law judge's inquiry about whether he was present. The administrative law judge attempted to call the claimant back but his phone went directly to voice mail. The administrative law judge called the employer's representative and explained the situation and stated she would continue to attempt to reach the claimant and would call the representative back around 12:15 p.m. or as soon as the claimant was contacted or called the Appeals Bureau. The administrative law judge made numerous attempts to reach the claimant but always received his voice mail. Finally, the administrative law judge left the claimant a voice mail stating if he had phone problems he needed to call her by noon on Monday, September 29, 2014 and notify her of his situation. If he simply hung up and decided not to participate, there was no reason to call the administrative law judge back. The claimant did not contact the administrative law judge by noon on Monday, September 29, 2014. He did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Based on the claimant/appellant's failure to participate in the hearing and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

**ISSUE:**

The issue is whether the underlying decision should be affirmed and the appeal should be effectively dismissed based upon the claimant/appellant's failure to participate in the hearing.

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. The claimant/appellant disconnected from the phone call from the administrative law judge before the hearing could commence and did not call back to report any problems with his phone. He was not available for the hearing and did not participate in the hearing.

The representative's decision concluded that the claimant/appellant was not eligible for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party.

Agency rule Iowa Admin. Code r. 871-26.14(7) provides that if the appealing party has not responded to a notice of telephone hearing by providing the Appeals Bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the judge may decide the appealing party is in default and dismiss the appeal, as provided in Iowa Code § 17A.12(3). The rule further states that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. Iowa Admin. Code r. 871-26.14(7)c.

The claimant/appellant appealed the unemployment insurance decision but failed to participate in the scheduled appeal hearing. The claimant/appellant has therefore defaulted on his appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the representative's decision remains in force and effect.

If the claimant/appellant disagrees with this decision, a written request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the emergency or other good cause that prevented the claimant/appellant from participating in the hearing or other good cause that prevented the claimant/appellant from participating in the hearing at the scheduled time. The claimant/appellant also has the option to appeal the decision directly to the Employment Appeal Board, whose address is listed at the beginning of the decision.

**DECISION:**

The representative's unemployment insurance decision dated August 19, 2014, reference 01, is affirmed. The decision denying benefits to the claimant/appellant remains in effect.

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Julie Elder  
Administrative Law Judge  
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Iowa Workforce Development  
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Decision Dated and Mailed

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