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

ELLSBETH M TOWNSEND Claimant	HEARING NUMBER: 16B-UI-07263
and	EMPLOYMENT APPEAL BOARD DECISION
HIGBEE WEST MAIN LP	:

Employer

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed July 7, 2016. The notice set a hearing for July 20, 2016. The Employer did not appear for or participate in the hearing. The reason the Employer did not participate is because when she attempted to contact the agency using either 800 number, she was unable to get through. She then faxed in the Employer's phone number at which she could be reached, but did not receive call in return. The Employer did not know the hearing was taking place.

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 through no fault of the Employer. The Employer unsuccessfully tried to gain access to the hearing, but her efforts were thwarted. Even her attempt to provide a number by fax was unsuccessful for which she provided a fax receipt confirmation that the call did go through. The Employer has demonstrated her intention to follow through with the appeals process. We find good cause has been established for her nonparticipation and that shall remand this matter for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated July 20, 2016 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.

Kim D. Schmett

Ashley R. Koopmans

AMG/fnv

James M. Strohman