

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOE V PARENZA**  
Claimant

**APPEAL NO. 12A-UI-00057-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 11/27/11  
Claimant: Appellant (1)**

Iowa Code Section 96.5(2)(a) - Discharge for Misconduct  
871 IAC 26.8(5) - Decision on the Record

**STATEMENT OF THE CASE:**

Joe Parenza appealed from an unemployment insurance decision dated December 23, 2011, reference 01, that denied benefits. A telephone hearing was scheduled for January 31, 2012. Neither the claimant nor his attorney responded to the hearing notice instructions to provide a telephone number for the hearing. Neither the claimant nor his attorney participated. The employer was available for the hearing through Pamela Kiel of Corporate Cost Control. Employer witnesses Karla Heffron, Mike McClure, and Tod Hockenson were also available. Based on the appellant's failure to participate in the hearing, the administrative file, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Decision on the record.

**FINDINGS OF FACT:**

Claimant Joe Parenza is the appealing party. A telephone hearing was scheduled for January 31, 2012 at 11:00 a.m. The parties were properly notified of the scheduled hearing on this appeal by notice mailed on January 11, 2012. Notice was mailed separately to the claimant and to his attorney, Mark King, on that date. Neither the claimant nor his attorney responded to the hearing notice instructions to provide a telephone number for the hearing. Neither the claimant nor his attorney participated. Nor did the claimant or his counsel request a postponement of the hearing. There is no evidence that either hearing notice was returned by the postal service as undeliverable for any reason. The employer was available for the hearing through Pamela Kiel of Corporate Cost Control. Employer witnesses Karla Heffron, Mike McClure, and Tod Hockenson were also available. The administrative law judge held the record open until 11:16 a.m. before closing the record excusing the employer representative and employer witnesses. As of the entry of this decision, the administrative law judge has heard nothing from the claimant or his counsel.

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:**

871 IAC 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.

Pursuant to the rule, the appellant must make a written request to the administrative law judge that the hearing be reopened 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 beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

**DECISION:**

The Agency representative's December 23, 2011, reference 01, decision is affirmed. The decision that denied benefits remains in effect. This decision will become final unless a written request establishing good cause to reopen the record is made to the administrative law judge within 15 days of the date of this decision.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/pjs