

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RYAN J HAHN
Claimant

APPEAL NO. 15A-UI-00642-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHENKER LOGISTICS INC
Employer

OC: 12/28/14
Claimant: Appellant (6)

Iowa Code § 17A.12(3) – Default Decision
871 IAC 26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

The claimant appealed a representative's January 15, 2015 determination (reference 02) that held him eligible to receive benefits from December 28, 2014, until January 10, 2015, because he voluntarily quit without good cause but was terminated before the effective date of his resignation. As of January 11, 2015, the claimant is disqualified from receiving benefits. Notices of hearing were mailed to the parties' last-known addresses of record informing them a telephone hearing would be held on February 4 at 4:05 p.m. A review of the Appeals Bureau's conference call system shows the claimant was not available at the telephone number provided for the hearing. The claimant did not participate in the hearing. The employer did not respond to the hearing notice or participate at the hearing.

ISSUE:

Should the appeal be dismissed when the appellant does not participate in the hearing?

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The claimant was not available at the telephone number he provided for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The representative's January 15, 2015 determination concluded the claimant was only eligible to receive benefits from December 28, 2014, until January 10, 2015, and was disqualified from receiving benefits as of January 11, 2015.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedures 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. The

statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

The Agency rules at 871 IAC 26.14(7) provide 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 record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rules further state that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. 871 IAC 26.14(7)c.

The claimant appealed the representative's January 15, 2015 determination but failed to participate in the hearing. The claimant defaulted on his appeal. Based on Iowa Code § 17A.12(3) and 871 IAC 24.14(7), the January 15, 2015 determination remains in full force and effect.

If the claimant disagrees with this decision, a request must be made 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 end of this decision and must explain the emergency or other good cause that prevented the claimant from participating in the hearing at its scheduled time.

DECISION:

The representative's January 15, 2015 determination (reference 02) is affirmed. The claimant is eligible to receive benefits from December 28, 2014, until January 10, 2015, because the employer discharged him before the effective date of his resignation. As of January 11, 2015, the claimant is disqualified from receiving benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

Debra L. Wise
Administrative Law Judge
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Decision Dated and Mailed

dlw/pjs