

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALAN K DAVIS
Claimant

APPEAL NO. 14A-UI-10837-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA LLC
Employer

OC: 09/21/14
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 October 7, 2014 (reference 01) determination that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit for reasons that do not qualify him to receive benefits. Notices of hearing were mailed to the parties' last-known addresses of record, informing them a telephone hearing would be held on November 6, at 8:30 a.m. A review of the Appeals Bureau's conference call system shows the claimant failed to timely respond to the hearing notice or provided a telephone number at which he could be reached for the hearing. The claimant did not participate in the hearing. Danielle Williams participated on the employer's behalf.

The claimant's wife called the Appeals Bureau on November 7 at 2 p.m. for the November 6 hearing. She requested that the hearing be reopened. Based on the claimant's request to reopen the hearing, the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant establish good cause to reopen the hearing?

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

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The claimant failed to follow the hearing notice instructions and did not provide a telephone number at which he could be reached for the hearing. The claimant did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The claimant failed to read the hearing notice and got the impression the hearing was on November 7 instead of November 6. On November 7 the claimant's wife did not contact the Appeals Bureau until 2 p.m. for a hearing that was scheduled at 8:30 a.m.

The representative's October 7, 2014 determination disqualified the claimant from receiving benefits.

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.

As a result of the claimant's failure to read and follow the hearing instructions, he did not establish good cause to reopen the hearing. The request to reopen the hearing is denied. The claimant appealed the representative's October 7, 2014 (reference 01) determination but failed to participate in the hearing or take reasonable steps to participate at the hearing. The claimant defaulted on his appeal. Based on Iowa Code § 17A.12(3) and 871 IAC 24.14(7), the representative's determination remains in full force and effect.

If the claimant/appellant 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/appellant from participating in the hearing at its scheduled time.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's October 7, 2014 (reference 01) determination is affirmed. As of September 21, 2014 the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge
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Decision Dated and Mailed

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