

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHEL M TATRO
Claimant

GREY HORSE HOMES LLC
Employer

APPEAL 18R-UI-03740-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/31/17
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 23, 2018, (reference 01) unemployment insurance decision that denied benefits. A hearing was held on February 26, 2018, for appeal 18A-UI-01435-B2-T. Claimant participated and testified at the hearing. Employer did not participate. After Administrative Law Judge Blair Bennett issued a decision, the employer appealed to the Employment Appeal Board (EAB) stating it missed the call to participate. On March 22, 2018, the EAB remanded this matter for a new hearing due to the employer's non-participation in the February 26 hearing.

After the EAB remanded, due notice was issued, a hearing was scheduled to be held on April 18, 2018. The employer did not respond to the hearing notice and register a telephone number at which to be reached for this hearing. Because the EAB did not vacate the original appeal decision for 18A-UI-01435-B2-T, that hearing record, including any exhibits, is adopted and incorporated herein. No additional exhibits were offered.

ISSUE:

Should the original appeal decision be adopted?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's findings of fact in appeal 18A-UI-01435-B2-T is hereby adopted and incorporated herein as the findings of fact for appeal 18R-UI-03740-NM-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's reasoning and conclusions of law in appeal 18A-UI-01435-B2-T is

hereby adopted and incorporated herein as the reasoning and conclusions of law for appeal 18R-UI-03740-NM-T. Benefits are allowed.

Iowa Admin. Code r. 871-26.14(7) provides:

If a 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 presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provide in Iowa Code section 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

Here, the employer did not register a telephone number at which to be reached for the hearing, and therefore the hearing was not held. Although the employer may have intended to participate in the hearing, forgetfulness or negligence in failing to read or follow the hearing notice instructions does not constitute good cause to reopen the hearing. The employer did not call in at any point and establish good cause to reopen the hearing record. As the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's reasoning and conclusions of law in appeal 18A-UI-01435-B2-T is hereby adopted and incorporated herein as the reasoning and conclusions of law for appeal 18R-UI-03740-NM-T. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's decision in appeal 18A-UI-01435-B2-T is hereby adopted and incorporated herein as the decision for appeal 18R-UI-03740-NM-T. The January 23, 2018 (reference 01) unemployment insurance decision remains reversed. Claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs