

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

LOLA A TWAITES

Claimant,

and

EXPRESS SERVICES INC

Employer.

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HEARING NUMBER: 11B-UI-03317

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

SECTION: 10A.601 Employment Appeal Board Review

FINDINGS OF FACT:

The notice of hearing in this matter was mailed March 22, 2011. The notice set a hearing for April, 6, 2011. The claimant did not appear for or participate in the hearing. The reason the claimant did not participate is because the number the administrative law judge called had recording, which indicated there was a block on the number with instructions that the caller must enter his 10-digit number to continue. The administrative law judge did not follow-through with the call and the claimant did not know that the hearing was taking place.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2011) 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 claimant did not participate in the hearing through no fault of the claimant. Although the claimant's number had a block on it, the only step the administrative law judge had to do was enter his 10-digit number to follow through with the call, as the claimant was available to accept it. Having established good cause for her nonparticipation, the Board shall remand this matter for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated April 7, 2011 is not vacated. 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.

John A. Peno

Monique F. Kuester

Elizabeth L. Seiser

AMG/kk