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

ANTONIO R IRWIN	: HEARING NUMBER: 20BUI-02255
Claimant	
and	EMPLOYMENT APPEAL BOARD
SAFELITE SOLUTIONS LLC	DECISION
Employer	

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was initially mailed March 18, 2020. The notice set a hearing for March 31, 2020. A subsequent notice was mailed March 26, 2020 in an effort to reschedule the hearing for April 27, 2020 due to the heavy backlog created by the COVID-19 pandemic. The agency mailed a 'Corrected' notice that same day for the same hearing date, but rescheduling it for a different time. The Claimant contacted the agency in response to the second notice, which he missed the call. What the Claimant did not know was that the hearing had been rescheduled at a new time that he had also missed. The Claimant did not receive the 'Corrected' Notice. The reason the Claimant did not appear is because he was not available at the number provided.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2019) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an administrative law judge on the basis of the evidence previous.ly 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 due to confusion in the process. However, the Claimant has established his intention to follow through with the appeal. For this reason, this matter shall be remanded for another hearing before an administrative law judge so that the Claimant may avail himself of his due process right.

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We caution the Claimant that, barring exceptional circumstances, we will not again excuse a failure to call in a number where the Claimant could be reached.

DECISION:

The decision of the administrative law judge dated April 27, 2020 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. 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.

Ashley R. Koopmans

AMG/fnv

Myron R. Linn