

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

---

**TRACY BAIN**

Claimant

and

**MERCY MEDICAL CENTER -  
CENTERVILLE**

Employer

:  
:  
:  
:  
:  
:  
:  
:  
:

**HEARING NUMBER: 15B-UI-07890**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**SECTION:** 10A.601 Employment Appeal Board Review

**D E C I S I O N**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed July 21, 2015. The notice set a hearing for August 14, 2015. The Employer did not appear for or participate in the hearing. The reason the Employer did not appear is because the Employer had submitted a request to postpone the hearing on August 6, 2015 because the Employer's primary witness could not be available due to medical procedure. The Employer did not know the hearing was still taking place.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2015) 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.

871 IAC 26.8(2) provides:

A hearing may be postponed by the presiding officer for good cause, either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement may be in writing or oral, provided the oral request is tape-recorded by the

presiding officer, and is made not less than three days prior to the scheduled hearing. A party shall not be granted more than one postponement except in the case of extreme emergency.

Here the Employer did not participate in the hearing through no fault of the Employer. The Employer did not participate because its primary witness would not be available on the original hearing date. The Employer complied with the aforementioned rule by submitted a postponement request in writing within three days of the hearing. The Employer has established good cause for their nonparticipation and did so in a timely manner. For this reason, the matter will be remanded for another hearing before an administrative law judge.

**DECISION:**

The decision of the administrative law judge dated August 17, 2015 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau. 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.

---

Kim D. Schmett

---

Ashley R. Koopmans

---

James M. Strohman

AMG/fnv