

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**DONALD J TEW**  
Claimant

**CALERIS INC**  
Employer

**APPEAL 14A-UI-13291-KCT**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 4/20/14**  
**Claimant: Appellant (6)**

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Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

An appeal was filed from an unemployment insurance decision dated December 19, 2014 (reference 04) that denied benefits. Notice of hearing was mailed to the parties' last-known addresses of record, for a telephone hearing to be held at 11:00 a.m. on January 22, 2015. A review of the Appeals Bureau's conference call system the same day shows the appellant was not available at the telephone number he provided for the scheduled hearing and no hearing was held.

**ISSUE:**

Should the appeal be dismissed based upon the appellant not being available to participate in the scheduled hearing?

**FINDINGS OF FACT:**

The party was properly notified of the scheduled hearing on this appeal. The appellant was not available at the telephone number he provided for the scheduled hearing. The administrative law judge left messages at the telephone number the claimant had provided when he registered for the hearing. The message included detailed instructions and the 800 number to call in order to participate in the hearing. The record was kept open over 20 minutes. The claimant did not return the call or leave message at any time before close of business on the date of the hearing. The employer's representative was available and prepared to participate at the hearing date and time. The administrative law judge advised the employer's representative to remain available for at least 15 minutes after the second message was left on the claimant's phone.

The representative's decision concluded that the claimant was ineligible for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure 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.

Agency rule Iowa Admin. Code r. 871-26.14(7) provides 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 rule further states that *failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record*. Iowa Admin. Code r. 871-26.14(7)c. (Emphasis added.)

The appellant appealed the unemployment insurance decision but failed to be available to participate in the scheduled hearing. The appellant has therefore defaulted on his appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the decision remains in full force and effect.

If the appellant disagrees with this decision, a request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The 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 appellant from participating in the hearing at the scheduled time.

**DECISION:**

The unemployment insurance decision dated December 19, 2014 (reference 04) denying benefits remains in effect. The appellant is in default and the appeal is dismissed.

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Kristin A. Collinson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
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Fax 515-242-5144

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Decision Dated and Mailed

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