

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

ALFREDO RODRIGUEZ

Claimant,

and

TITAN TIRE CORPORATION

Employer.

HEARING NUMBER: 09B-UI-07288

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

FINDINGS OF FACT:

The notice of hearing in this matter was mailed May 19, 2009. The notice set a hearing for June 22, 2009. The claimant's representative submitted a letter dated June 18th requesting an in-person hearing. The claimant's representative also contacted the agency to verify that the letter had been received and was told that a new hearing notice would be forthcoming. The claimant did not appear on June 22nd because the claimant never received a new notice for the in-person hearing. The claimant did not know the original hearing was taking place.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2005) provides:

5. 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. The claimant through his representative requested an in-person hearing and believed in good faith that a new hearing was being scheduled; but he never received the new notice. Having established good cause for his nonparticipation, we shall grant a remand for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated June 23, 2009 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.

Elizabeth L. Seiser

Monique F. Kuester

AMG/ss