

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**NAKITA M SCOFIELD**  
Claimant

**APPEAL NO. 08A-UI-07087-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MID-STEP SERVICES INC**  
Employer

**OC: 07/06/08 R: 01  
Claimant: Appellant (5-R)**

Section 96.5-2-a – Misconduct  
871 IAC 26.8(5) – Decision on the Record

**STATEMENT OF THE CASE:**

An appeal was filed from an unemployment insurance decision dated July 30, 2008, reference 01, that concluded that the claimant was disqualified for benefits. Due notice was issued for a hearing to be held in Spencer, Iowa, on September 9, 2008. The claimant, the appellant herein, did not respond to the notice of hearing. Based on the appellant's failure to participate in the hearing, the administrative file, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

At issue in this matter is whether the decision previously entered should be affirmed.

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. The appellant did not respond when paged at the time of the hearing and again ten minutes later. The claimant had not requested a postponement of the hearing.

The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment insurance decision should be affirmed.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within

15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

The administrative law judge has carefully reviewed the evidence in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed, with one modification. It appears that the claimant was suspended rather than discharged. The record indicates that the claimant returned to work after the suspension but that the employment ended permanently in early September 2008.

Pursuant to the rule, the appellant must make a written request to the administrative law judge within 15 days after the mailing date of this decision asking that the hearing be reopened. The written request should be mailed to the administrative law judge at the address listed at the beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

**DECISION:**

The unemployment insurance decision dated July 30, 2008, reference 01, is affirmed as modified. The decision disqualifying the claimant for unemployment insurance benefits remains in effect. Benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. This decision will become final unless a written request establishing good cause to reopen the record is made to the administrative law judge or an appeal is filed with the Employment Appeal Board within 15 days of the date of this decision. The issue of the claimant's subsequent separation from employment is referred to the Unemployment Insurance Services Division should it become necessary to determine the consequences of that separation.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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