

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMARA TOLEFREE**  
Claimant

**APPEAL NO. 14A-UI-12269-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FAMILY DOLLAR STORES OF IOWA INC**  
Employer

**OC: 10/19/14  
Claimant: Appellant (6)**

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 November 10, 2014, reference 01, which concluded the claimant was discharged for work-connected misconduct. Notices of hearing were mailed to the parties' last-known addresses of record, for a telephone hearing to be held at 2 p.m. on December 16, 2014. The claimant did not participate in the hearing.

**ISSUE:**

Should the appeal be dismissed because the claimant did not participate in the hearing?

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. A review of the Appeals Bureau's conference call system shows the claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing. She did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedures 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.

The Agency rules at Iowa Admin. Code r. 871-26.14(7) provide 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 rules further state 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.

The claimant appealed the unemployment insurance decision but failed to participate in the hearing. She has therefore defaulted on her 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 she disagrees with this decision, a request must be made to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written 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 her from participating in the hearing at its scheduled time.

**DECISION:**

The unemployment insurance decision dated November 10, 2014, reference 01, is affirmed. The decision denying benefits remains in effect.

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Steven A. Wise  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-242-5144

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Decision Dated and Mailed

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