

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHAD V GUNZENHAUSER
Claimant

APPEAL 21A-UI-20333-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 07/18/21
Claimant: Appellant (6)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions
Iowa Admin. Code r. 871-24.23(27) – Active and Earnest Search for Work
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 September 8, 2021 (reference 02), that issued a work search warning, but did not deny benefits. Notice of hearing was mailed to the party's last known addresses of record for a telephone hearing to be held at 11:05 a.m. on November 8, 2021. A review of the Appeals Bureau's conference call system shows the claimant/appellant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing. No hearing was held.

ISSUE:

Should the appeal be dismissed based upon the appellant not participating in the hearing?

FINDINGS OF FACT:

The party was properly notified of the scheduled hearing on this appeal. The appellant failed to provide a telephone number at which he could be reached for the scheduled hearing and did not participate or request a postponement of the hearing as required by the hearing notice. Official notice of the Clear2there hearing control screen is taken to establish that appellant did not call or register online with the Appeals Bureau to provide a telephone number and/or name of a representative.

The front of the hearing notice instruction specifically advises in English and Spanish:

MON NOV 08, 2021	Date
11:05 AM	Iowa Time

IMPORTANT NOTICE!

YOU MUST PROVIDE YOUR PHONE NUMBER TO THE APPEALS BUREAU
AS SOON AS POSSIBLE. If you do not follow these instructions, the judge will

not call you for the hearing. You must also provide the name(s) and phone number(s) of any witnesses to the Appeals Bureau.

The back page of the hearing notice provides further instruction and warning in both languages: If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence. The Appeals Bureau does not have a phone number for this hearing unless you provide it to us by following the instructions on the other side of this page. If you do not follow those instructions, the judge will not call you for the hearing. 871 IAC 26.14(7)

As a *courtesy* to the appellant the record was left open for a minimum grace period of 15 minutes after the hearing start time to give the appellant a *reasonable* opportunity to participate. Holding the appellant in default for failure to appear and participate during a 15-minute window after the hearing start time is reasonable.

The representative's decision held that claimant had not properly reported making two job contacts and provided a warning, but did not deny 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 in writing to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

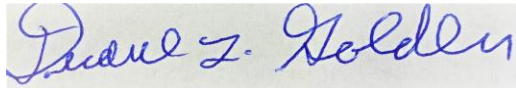
Agency rule Iowa Admin. Code r. 871-26.14(7) provides that if the appealing party has not responded to a notice of telephone hearing by providing the Appeals Bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or 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 written 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.

The appellant appealed the unemployment insurance decision but failed to participate in the 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 force and effect.

Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final, or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The unemployment insurance decision dated September 8, 2021, (reference 02), is affirmed. The warning to claimant that he must make two weekly job contacts, but did not deny benefits, remains in effect.

A handwritten signature in blue ink that reads "Duane L. Golden". The signature is written in a cursive style and is placed on a light gray rectangular background.

Duane L. Golden
Administrative Law Judge

December 01, 2021
Decision Dated and Mailed

dlg/mn