IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

SHAWN K BROWN Claimant **IOWA WORKFORCE DEVELOPMENT DEPARTMENT**	**APPEAL 14A-UI-11211-H2T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 08/17/14** **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 October 24, 2014, (reference 01) that denied backdating the claimant's claim for benefits. Notice of hearing was mailed to the party's last-known addresses of record for a telephone hearing to be held at 11:00 a.m. on November 18, 2014. 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. The appellant called at 9:11 a.m. on November 19, 2014 after the hearing record was closed.

ISSUES:

Should the hearing record be reopened?
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 for this appeal. The appellant failed to provide a telephone number at which he could be reached for the hearing. The appellant did not respond to the hearing notice because he did not read the hearing notice and assumed the administrative law judge would call him anyway.

The representative's decision concluded that the claimant was not eligible for backdating his claim 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 ALJ 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 ALJ 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 ALJ 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.**

The appellant appealed the unemployment insurance decision but failed to participate in the hearing. The appellant has not established emergency or other good-cause reason for failing to respond to the hearing notice instructions and the record shall not be reopened. 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.

DECISION:

The unemployment insurance decision dated October 24, 2014 (reference 01), is affirmed. The record shall not be reopened. The decision denying backdating of his claim for benefits remains in effect.

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Teresa K. Hillary
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs