IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

HEATHER L BASCOM Claimant **IOWA WORKFORCE** **DEVELOPMENT DEPARTMENT**	**APPEAL NO: 15A-UI-05761JCT** **ADMINISTRATIVE LAW JUDGE** **DECISION** **OC: 01/04/15** **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 April 21, 2015, (reference 03) that denied the claimant's request for retroactive benefits. Notice of the hearing was mailed to the parties' last-known addresses of record for a telephone hearing to be held at 12:00 p.m. on June 26, 2015. A review of the Appeals Bureau's conference call system after 12:48 p.m. the same day shows the claimant/appellant failed to be available when called at a provided telephone number for the scheduled hearing, and no hearing was held. The claimant was left a voicemail advising her to call the Appeals Bureau to participate and a grace period was offered. She did not respond and the record was closed at 12:48 p.m.

ISSUE:

Should the appeal be dismissed based upon the appellant not being available to participate in the scheduled hearing?

FINDINGS OF FACT:

The party was properly notified of the scheduled hearing on this appeal. The appellant, Heather L. Bascom, failed to be available when called at a provided telephone number for the hearing, nor did she request a postponement of the hearing as required by the hearing notice.

The agency's decision denied the claimant's request to retroactive 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 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.

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 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. (Emphasis added.)

The appellant, Heather L. Bascom, appealed the unemployment insurance decision but failed to be available to participate in the scheduled hearing. The appellant has therefore defaulted on her 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.

If the appellant disagrees with this decision, a request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The 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 appellant from participating in the hearing at the scheduled time.

DECISION:

The appellant is in default and the appeal is dismissed. The unemployment insurance decision dated April 21, 2015, (reference 03) denying the request for retroactive benefits remains in effect.

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Jennifer L. Coe
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

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Decision Dated and Mailed

jlc/pjs