

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**AMY L BARTACHEK**  
Claimant

**APPEAL 20A-UI-14351-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/29/20**  
**Claimant: Appellant (6)**

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PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the November 6, 2020 (reference 04) unemployment insurance decision that found claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) benefits. Notice of hearing was mailed to the appellant's last known address of record for a telephone hearing scheduled for January 11, 2021, at 1:15 p.m. A review of the Appeals Bureau's conference call system indicates that the appellant failed to respond to the hearing notice and provide a telephone number at which appellant could be reached for the scheduled hearing. The administrative law judge registered the appellant based upon information gathered from the appeal letter. The appellant was not available at the telephone number on the appeal letter; therefore, no hearing was held.

**ISSUE:**

Whether the appeal should be dismissed based on the appellant's failure to appear and participate.

**FINDINGS OF FACT:**

The appellant was properly notified of the scheduled hearing for this appeal. The administrative law judge registered the appellant based upon information gathered from the appeal letter. The appellant was not available at the telephone number listed on the appeal letter and did not participate in the hearing 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 register a telephone number for the hearing and did not answer when called at the number the administrative law judge registered from the appeal letter.

The hearing notice instruction specifically advises parties of the date and time of hearing. It also states:

**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.

The back page of the hearing notice provides further instruction and warning:

**Failure to Participate or Register for Appeal Hearing**

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)

The information quoted above also appears on the hearing notice in Spanish.

As a courtesy to the appellant the record was left open for a minimum 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 considering the time allocated for unemployment hearings.

The representative's decision concluded that claimant was overpaid FPUC 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.

Iowa Admin. Code r. 871-26.14(7) provides, in pertinent part:

(7) If a 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 presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3).

In this case, the appellant did not provide a telephone number to the Appeals Bureau prior to the scheduled hearing. The administrative law judge registered the appellant based on information found on the appeal letter. The appellant was not available at the telephone number provided on the appeal letter. The appellant is in default. The appeal should be dismissed.

If the appellant disagrees with this decision, the appellant may appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

**DECISION:**

The November 6, 2020 (reference 04) unemployment insurance decision finding claimant was overpaid FPUC benefits remains in effect as the appellant is in default and the appeal is dismissed.



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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

January 28, 2021  
Decision Dated and Mailed

acw/mh