

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SYLVIA THURMAN
Claimant

APPEAL 22A-UI-03810-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/08/19
Claimant: Appellant (6)**

Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Code § 96.16(4) – Offenses and Misrepresentation
Iowa Admin. Code 871-25.1 – Definitions
Iowa Admin. Code 871-25.9 – Administrative Penalties
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

On January 24, 2022, Sylvia Thurman (claimant/appellant) filed an appeal from the Iowa Workforce Development decision dated January 14, 2022 (reference 05) that determined claimant was overpaid Lost Wage Assistance Payments in the amount of \$900.00 for three weeks ending September 5, 2020 due to a failure to report wages and added a 15 percent penalty due to misrepresentation.

Notice of hearing was mailed to the party's last known address of record for a telephone hearing to be held on April 27, 2022. This matter was to be held concurrently with six related matters beginning at 1:00 p.m.

A review of the Appeals Bureau's conference call system indicates that the appellant failed to call the toll-free number listed on the hearing notice at the time of the hearing. No hearing was held.

ISSUE:

Should the appealed decision remain in force and the appeal be dismissed due to the appellant not appearing for or participating in the hearing?

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing for this appeal. The appellant failed to call the toll-free number listed on the hearing notice at the time of the 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 in to participate.

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

IMPORTANT NOTICE!

YOU MUST CALL the toll-free number: **866-783-7021** at the time of the hearing. When instructed, enter the PIN Number...followed by the pound key [#] and wait for the administrative law judge to begin the hearing.

The administrative law judge **WILL NOT** call you for the hearing, you **MUST** call into the number provided above to participate. **Failure to participate in the hearing may result in the dismissal of your appeal.**

The back page of the hearing notice provides further hearing instructions stating, "You must call the toll-free number on the front of this notice at the time of the hearing to participate." This information also appears on the hearing notice in Spanish.

The record was left open for a minimum of 15 minutes after the hearing start time as courtesy to the appellant. The appellant did not register a number or call in to participate within that timeframe.

REASONING AND CONCLUSIONS OF LAW:

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. Iowa Admin. Code r. 871-26.14(7) provides that if the appealing party fails to participate the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). 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 appealed the unemployment insurance decision but failed to participate in the hearing. The appellant has therefore defaulted on the appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7). The appeal is dismissed and the decision appealed remains in force and effect.

DECISION:

The decision dated January 14, 2022 (reference 05) that determined claimant was overpaid Lost Wage Assistance Payments in the amount of \$900.00 for three weeks ending September 5, 2020 due to a failure to report wages and added a 15 percent penalty due to misrepresentation remains in effect, as the appellant is in default. The appeal is dismissed.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

April 28, 2022
Decision Dated and Mailed

abd/abd