

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**KIMI L TORRES**  
Claimant

**APPEAL 22A-UI-04396-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/17/20**  
**Claimant: Appellant (6)**

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Iowa Code § 96.3(7) – Overpayment of Benefits  
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 February 10, 2022, Kimi Torres (claimant/appellant) filed an appeal from the unemployment insurance decision dated February 4, 2022 (reference 05) that determined claimant was overpaid Lost Wage Assistance Payments in the amount of \$1,800.00 for the six weeks ending September 5, 2020 based on a prior decision denying benefits.

Notice of hearing was mailed to the party's last known address of record for a consolidated telephone hearing including appeal numbers 22A-UI-04393, 22A-UI-04394, 22A-UI-04395, and 22A-UI-04396 to be held on March 22, 2022 at 8:00 a.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 appeal be dismissed based upon the appellant not 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.

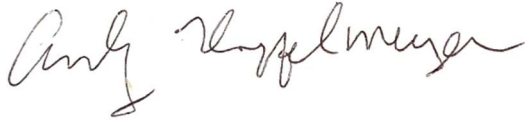
**REASONING AND CONCLUSIONS OF LAW:**

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 February 4, 2022 (reference 05) that determined claimant was overpaid Lost Wage Assistance Payments in the amount of \$1,800.00 for the six weeks ending September 5, 2020 based on a prior decision denying benefits remains in effect, as the appellant is in default. The appeal is dismissed.



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

March 28, 2022

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Decision Dated and Mailed

abd/abd

**Note to Claimant:**

If 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.

If this decision determines you have been overpaid federal pandemic-related benefits you may request a waiver of the overpayment. Instructions for requesting a waiver can be found at <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>. If this decision becomes final and you are not eligible for a waiver, you will have to repay the benefits you received.

Individuals who do not qualify for regular unemployment insurance benefits and were unemployed between February 2, 2020, and June 12, 2021 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.** To apply for PUA go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals> and click the link in the last paragraph under "WHAT TO EXPECT FROM THE HEARING." **The authorization number is the PIN you used for the hearing.**