IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

JAMES C ARMSTRONG Claimant **IOWA WORKFORCE DEVELOPMENT DEPARTMENT**	**APPEAL NO. 17A-UI-11317-JE-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 10/01/17** **Claimant: Appellant (6)**

Iowa Code § 96.3-7 – Recovery of Benefit Overpayment
Iowa Code § 17A.12(3) - Default Decision
871 IAC 26.14(7)- Dismissal of Appeal on Default

STATEMENT OF THE CASE:

The claimant/appellant filed a timely appeal from a representative's unemployment insurance decision dated October 31, 2017, (reference 02), that determined he was overpaid benefits in the amount of $441.00 for the three weeks ending October 21, 2017. A notice of hearing was mailed to the party's last-known address of record for a telephone hearing to be held at 10:05 a.m. on November 27, 2017. A review of the Appeals Bureau's conference call system indicates that the claimant/appellant failed to respond to the hearing notice to provide a telephone number at which he could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the underlying decision should be affirmed and the appeal should be effectively dismissed based upon the claimant/appellant's failure to participate in the hearing.

FINDINGS OF FACT:

The party was properly notified of the scheduled hearing on this appeal. The claimant/appellant failed to provide a telephone number at which he could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.
The representative's decision determined the claimant/appellant was overpaid benefits in the amount of $441.00 for the three weeks ending October 21, 2017.

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 871 IAC 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. 871 IAC 26.14(7)c.

The claimant/appellant appealed the unemployment insurance decision but failed to participate in the scheduled appeal hearing. The claimant/appellant has therefore defaulted on his appeal pursuant to Iowa Code § 17A.12(3) and 871 IAC 26.14(7), and the representative's decision remains in force and effect.

If the claimant/appellant disagrees with this decision, a written request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The written 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. The appellant also has the option to appeal the decision directly to the Employment Appeal Board, whose address is listed at the beginning of the decision.

DECISION:

The representative's unemployment insurance decision dated October 31, 2017, (reference 02), is affirmed. The decision determining the claimant is overpaid benefits in the amount of $441.00 for the three weeks ending October 21, 2017, remains in effect.

_____

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

_____

Decision Dated and Mailed

je/scn