

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

THOMAS P MCDOWELL JR

Claimant

and

WINEGARD COMPANY

Employer

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HEARING NUMBER: 21B-UI-01763

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed February 19, 2021. The notice set a hearing for March 12, 2021. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Claimant did not provide a telephone number at which the Claimant could be reached. Thus, the Claimant did not receive the call. Prior to the hearing date the Claimant spoke with employees of IWD in person. IWD told Claimant to wait for a phone call, and this is why the Claimant did not call in.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2021) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

Here the Claimant did not participate in the hearing because she had not provided a telephone number for the administrative law judge to call. Prior to the hearing the Claimant made inquiry with IWD of what she was to do, and she was told to wait for a call. This hindered Claimant's ability to timely gain access to participate. Based on this circumstance, we find the Claimant has established Claimant's intention to follow through with the appeals process. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Claimant may avail herself of her due process right.

We caution the Claimant that, barring exceptional circumstances, we will not again excuse a failure to call in or register on-line a number where the Claimant could be reached.

DECISION:

The decision of the administrative law judge dated March 4, 2021 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

RRA/fnv