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

:

RAYMOND BRINK

HEARING NUMBER: 09B-UI-00361

Claimant,

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and : EMPLOYMENT APPEAL BOARD

DECISION

ABCO ENGINEERING CORP

Employer.

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed January 30, 2009. The notice set a hearing for February 16, 2009. The employer did not appear for or participate in the hearing. The reason the employer did not appear is because the employer contacted the agency on the day of the hearing to participate. His call was delayed as it was placed on hold by the answering system. When he finally got through, his call was late, i.e., two minutes after the record had closed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2005) provides:

5. 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 employer did not participate in the hearing because his call to participate came through just two minutes after the record had closed. It is clear that the employer intended to follow through with the appeals process, but was unable to have his call connected due to a delay that was beyond his control.

For this reason, the	e matter will be rema	anded for another hear	ring before an administ	rative law judge.

DECISION:

The decision of the administrative law judge dated February 17, 2009 is not vacated. 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.

John A. Peno
Elizabeth L. Seiser
Monique F. Kuester

AMG/fnv