

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**KIMBERLI D BETTS**  
Claimant

**APPEAL NO: 12A-UI-14733-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IMON COMMUNICATIONS**  
Employer

**OC: 09/09/12**  
**Claimant: Appellant (1/R)**

Iowa Code § 96.4(3) – Availability for Work  
871 IAC 26.8(5) – Decision on the Record

**STATEMENT OF THE CASE:**

The claimant appealed a representative's December 5, 2012 determination (reference 03) that held her ineligible to receive benefits as of September 9, 2012, because she was a full-time student and was not available for work. A telephone hearing was held on January 18, 2013. The claimant was called for the hearing. After the employer's witnesses were on the line, the claimant became disconnected from the hearing. Nick Kenpper, Chelsey McDill and Ben Detweiler appeared on the employer's behalf.

The administrative law judge called the claimant's phone number again, but it rang busy. The claimant was given an opportunity to contact the Appeals Section so she could participate in the hearing. The claimant did not call the Appeals Section again on January 18, 2013, to participate in the hearing. Based on the administrative file and the law, the following findings of fact, reasoning and conclusions of law and decision are entered.

**FINDINGS OF FACT:**

After the claimant became disconnected from the hearing before the hearing started, her phone number was called again, but her line was busy. The claimant did not contact the Appeals Section on January 18 after she became disconnected from the hearing. The claimant, the appealing party, did not participate in the hearing or request that the hearing be reopened.

A careful review of the information in the administrative file has been conducted to determine whether the unemployment insurance decision should be affirmed.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance rules provide that when a party who has received due notice is unable to attend a hearing or request postponement within the prescribed time due to emergency or other good cause, the administrative law judge may, if no decision has been issued, reopen the record and schedule another hearing. If a decision has been issued, the decision may be vacated upon the administrative law judge's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the Employment Appeal Board or the Department of Inspections and Appeals. If a decision is

vacated, notice shall be given to all parties of a new hearing to be held and decided by another administrative law judge. Once a decision has become final as provided by statute, the administrative law judge officer has no jurisdiction to reopen the record or vacate the decision. 871 IAC 26.8(3). The rules further provide that a request to reopen a record or vacate a decision may be heard ex parte by an administrative law judge. The granting or denial of such a request may be used as a grounds for appeal to the Employment Appeal Board or the Department of Inspections and Appeals after the administrative law judge has issued a final decision in the case. 871 IAC 26.8(4). Finally, if good cause for postponement or reopening has not been shown, the administrative law judge shall make a decision based upon whatever evidence is properly in the record. 871 IAC 26.8(5).

The administrative law judge has carefully reviewed the information in the administrative file in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

Pursuant to the rule, the claimant must make a written request to the administrative law judge that the hearing be reopened 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 beginning of this decision and must explain the emergency or other good cause that prevented the claimant from participating in the hearing at its scheduled time.

**DECISION:**

The representative's December 5, 2012 determination (reference 03) is affirmed. The determination that held the claimant ineligible to receive benefits as of September 9, 2012, remains in effect. This means, the claimant is not eligible to receive benefits until she reopens her claim and establishes that she is available for work. Since the claimant has received benefits since September 9, 2012, an issue of overpayment is **Remanded** to the Claims Section to determine. This decision will become final unless a written request establishing good cause to reopen the record is made to the administrative law judge within 15 days of the date of this decision.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css