

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

ELIZABETH A SWYTER

Claimant

and

DOLGENCORP LLC

Employer

:
:
:
:
:
:
:
:
:
:

HEARING NUMBER: 17BUI-05262

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

The notice of hearing in this matter was mailed May 24, 2017. The notice set a hearing for June 5, 2017. The Employer did not appear for or participate in the hearing. The reason the Employer did not appear is because the Employer did not receive the Notice of Hearing because it was sent to the wrong address. The Employer did not know the hearing was taking place.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2015) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an 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 through no fault of the Employer. The Employer did not participate because the Employer did not receive the Notice of Hearing due to its being sent to the wrong address. The Employer did not know that a hearing was taking place. For this reason, the matter will be remanded for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated June 8, 2017 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.

NOTE TO EMPLOYER:

The Employment Appeal Board would note that in accordance with the instruction on the cover page of the administrative law judge's decision (at the bottom), the Employer must go online to access information regarding any contact changes the Employer wishes to make at:

<https://www.myiowaui.org/UITIPTaxWeb/>

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv