

**IOWA WORKFORCE DEVELOPMENT DEPARTMENT
UNEMPLOYMENT INSURANCE APPEALS SECTION
1000 EAST GRAND AVENUE
DES MOINES IA 50319**

**Appeal Number: 05A-UI-03024-AT
OC: 02/20/05 R: 01
Claimant: Respondent**

**CAROL A ROSEMEYER
118 S JOHN ST
SIOUX CITY IA 51103**

**WALGREEN COMPANY
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

**RICHARD STURGEON
PO BOX 3372
SIOUX CITY IA 51102-3372**

Section 871 IAC 26.9 – Prehearing Order

STATEMENT OF THE CASE:

Walgreen Company filed a timely appeal from an unemployment insurance decision dated March 17, 2005 reference 01 which allowed benefits to Carol A Rosemeyer. Before a final hearing was scheduled, the claimant submitted interrogatories to be answered under oath by the employer. A prehearing conference was held on May 12, 2005 because the claimant had not yet received the answers to the interrogatories. The claimant's representative, Richard Sturgeon, and the employer's representative, Sherri McFarland, participated. At the conclusion of the prehearing conference, the administrative law judge issued an oral order requiring that the answers be delivered to the claimant at the address of her representative not later than May 16, 2005. Mr. Sturgeon has advised the administrative law judge that he has received the answers. A copy of the answers is in the hearing file.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The answer submitted by the employer had not been notarized. Furthermore, the answer to interrogatory 18 states that the employer has no documents or items of tangible physical evidence to be offered

at the final hearing. The answer to interrogatory number 15 states that it has no witnesses to present at the final hearing.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the employer has complied with the administrative law judge's order. It has not done so.

Discovery procedures applicable to civil actions in the Iowa District Court are available to all parties in interest in contested cases. See 871 IAC 26.9(1). Interrogatories in the Iowa District Court are to be answered under oath. See Iowa Rule of Civil Procedure 1.509(1). The administrative law judge concludes that the employer's failure to notarize its answers places it in default.

Furthermore, the employer has declined to disclose the names of witnesses or exhibits it intends to offer at the evidentiary hearing. This may be an indication that the employer does not intend to participate in the final hearing, or it may be an attempt to avoid disclosing discoverable information.

ORDER:

Unless or until the employer responds to the claimant's interrogatories by answering them under oath and providing a list of witnesses and exhibits, it will not be allowed to participate in the contested case proceeding to be held in Sioux City, Iowa, the week of July 11, 2005.

Dan Anderson
Chief Administrative Law Judge

Dated and mailed:

DA:sc

Copies to all parties of record.