

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
COLBY S PETERSEN Claimant	APPEAL NO. 15A-UI-13440-TN-T
MENARD INC Employer	ORDER GRANTING REQUEST TO REOPEN THE RECORD
	OC: 10/25/15 Claimant: Respondent

Menard, Inc. filed a timely appeal from a representative's decision dated November 30, 2015 (reference 02) which held claimant eligible to receive unemployment insurance benefits, finding that the claimant left employment with good cause attributable to the employer. After due notice was provided, a telephone hearing was held on January 6, 2016. The employer participated by Mr. Lance Gesell, Plant Manager, and Mr. Jason Jenneman, Training Manager. The claimant did not provide a telephone number in advance for the hearing. After the hearing was concluded, the claimant late called; stating that he had not provided a telephone number in advance of the scheduled hearing because he was confused by the hearing notice and believed that he had complied by submitting his telephone number for what he believed to be a "hearing" (the adjudicator's discovery call). The claimant requested that the January 6, 2016 hearing record be reopened.

Iowa Admin. Code r. 871- Iowa Admin. Code r. 871-26.14(2) and (7) provides:

(2) The presiding officer shall inquire fully into the factual matters at issue and shall receive in evidence the sworn testimony of witnesses and physical evidence which are material and relevant to such matters. Upon the presiding officer's own motion or upon the written application of any party, and for good cause shown, the presiding officer may reopen the record for additional material, relevant and nonrepetitious evidence not submitted at the original contested case hearing.

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to

why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

At issue is a request to reopen the record made after the hearing had concluded. The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

At issue is a request to reopen the record, made after the hearing had concluded. The request to reopen the record is approved because in this instance the claimant has established good cause. Mr. Petersen was confused about the requirement that he supply his telephone number prior to the hearing because of his belief that he had recently done so for a telephone preceding that he believed to be a "hearing."

Based upon the above facts, the administrative law judge concludes that the claimant has established good cause to reopen the hearing record.

IT IS ORDERED that the claimant's request to reopen the hearing record is approved.

If the parties disagree with this Order, within 15 days from the date below, any interested party to the appeal may appeal to the Employment Appeal Board by submitting a signed letter or signed written notice of appeal to the Employment Appeal Board, 4th Floor, Lucas Building, Des Moines, Iowa 50319.

Terence P. Nice
Administrative Law Judge

Order Dated and Mailed

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