

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
Website: eab.iowa.gov**

EMILY R BROCKMEYER

Claimant

: **APPEAL NUMBER:** 23B-UI-09162

: **ALJ HEARING NUMBER:** 23A-UI-09162

:

and

:

**EMPLOYMENT APPEAL BOARD
DECISION**

:

**CEDAR VALLEY RECYCLING &
TRANSFER**

:

:

:

Employer

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed September 28, 2023. The notice set a hearing for October 12. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because she did not receive the Notice of Hearing due to an emergency medical situation. The Claimant did not know the hearing was taking place and she was hospitalized at the time of the hearing. Additionally, that decision determined that the Claimant who did not appear or participate in the hearing “defaulted pursuant to Iowa Code section 17A.12(3)...” and the previous decision remained in effect.

REASONING AND CONCLUSIONS OF LAW:

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

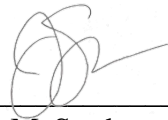
4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate 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 Claimant did not participate in the hearing through no fault of her own. The Claimant did not participate because she did not receive the Notice of Hearing and did not know that a hearing was taking place. Additionally, she was in the hospital during the time of the hearing. Although the administrative law judge entered a default decision based on the Claimant's failure to appear at the hearing, the Board finds that the Claimant provided good cause for her nonparticipation. 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 October 13, 2023, 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 who shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

When you receive the Notice of Hearing, please read and follow the instructions carefully.



James M. Strohman



Myron R. Linn

SRC/fnv

DATED AND MAILED: DEC 04 2023