

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSEPH A RICCIO**

Claimant

**APPEAL NO. 14A-UI-03053-DW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**METRO FOOD & DRINK LC**

Employer

**OC: 02/09/14**

**Claimant: Respondent (6)**

Iowa Code § 17A.12(3) – Default Decision

Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

The employer appealed a representative's March 11, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account exempt from charge because he had been discharged for nondisqualifying reasons. Notices of hearing were mailed to the parties' last-known addresses of record informing them a telephone hearing would be held at 10:30 a.m. on April 29, 2014. The claimant participated at the April 29 hearing. The employer did not participate at the in-person hearing or request that the hearing be postponed.

**ISSUE:**

Should the appeal be dismissed when the employer/appellant did not participate in the hearing?

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. The employer/appellant failed to appear for the in-person hearing. The employer did not request a postponement of the hearing as required by the hearing notice.

The representative's March 11, 2014 determination concluded the claimant was qualified to receive benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedures Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party. The statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

The Agency rules at Iowa Admin. Code r. 871-26.14(7) provide that if the appealing party does not participate at a scheduled hearing, the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if

the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rules further state that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. Iowa Admin. Code r. 871-26.14(7)c.

The employer/appellant appealed the unemployment insurance determination but failed to participate in the hearing. The employer/appellant defaulted on its appeal. Based on Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), the determination remains in full force and effect.

If the employer/appellant disagrees with this decision, a request must be made 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 end of this decision and must explain the emergency or other good cause that prevented the employer/appellant from participating in the hearing at its scheduled time.

**DECISION:**

The representative's March 11, 2014 determination (reference 01) is affirmed. As of February 9, 2014, the claimant remains qualified to receive benefits provided he meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
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Decision Dated and Mailed

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