

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHA T JACKSON
Claimant

APPEAL NO. 14A-UI-05760-SW

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 04/13/14
Claimant: Appellant (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:

An appeal was filed from an unemployment insurance decision dated May 14, 2014, reference 01, that concluded the claimant was discharged for work-connected misconduct. Notices of hearing were mailed to the parties' last known addresses of record for an in-person hearing to be held at 9:30 a.m. on August 12, 2014. The claimant/appellant did not participate in the hearing.

ISSUE:

Should the appeal be dismissed because the claimant did not participate in the hearing?

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The claimant did not appear for the hearing or request a postponement of the hearing as required by the hearing notice.

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(6) provides that "In the event that one or more parties which have received notice for a contested case hearing fail to appear at the time and place of an in-person hearing, the presiding officer may proceed with the hearing. If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal. The hearing may be reopened if the absent party makes a request to reopen the hearing under 871 IAC 26.8(3) and shows good cause for reopening the hearing.

The claimant appealed the unemployment insurance decision but failed to participate in the hearing. She has therefore defaulted on her appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(6), and the decision remains in force and effect.

If the claimant 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 her from participating in the hearing at its scheduled time. It should be noted that the deadline for appeal was May 24, 2014. There is an issue regarding the timeliness of the appeal that would need to be resolved if this decision is overturned.

DECISION:

The unemployment insurance decision dated May 14, 2014, reference 01, is affirmed. The decision denying benefits remains in effect.

Steven A. Wise
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-242-5144

Decision Dated and Mailed

saw/css