

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

FREWEYNI ABRAHA

Claimant

and

SWIFT PORK COMPANY

Employer

HEARING NUMBER: 17BUI-06430

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

DECISION

STATEMENT OF THE CASE:

The issue of timeliness was raised when the Claimant filed an appeal postmarked August 30, 2017, a month beyond the statutory deadline of July 27, 2017. The reason for the delay was because the Claimant could not timely retrieve her mail due to an emergency situation, which was exacerbated by the language barrier. For this reason, we find good cause has been established for the late appeal, and the board shall consider it to be timely.

FINDINGS OF FACT:

The notice of hearing in this matter was mailed June 30, 2017. The notice set a hearing for July 11, 2017. The Claimant, who is a non-English-speaking person, did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Claimant was temporarily displaced from her home address, and did not receive the Notice of Hearing. The Claimant did not know the hearing was taking place.

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 the Claimant. The Claimant did not participate because due to emergency reasons, she was not living at the address of record. Because she did not receive the Notice of Hearing, she did not know that a hearing was taking place. 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 July 12, 2017 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 in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Ashley R. Koopmans

James M. Strohman

AMG/fnv