

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JORDAN DUROW
Claimant

APPEAL NO: 11A-UI-08853-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**P J IOWA LC
PAPA JOHN'S PIZZA**
Employer

OC: 05/29/11
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 26.8(5) - Decision on the Record

STATEMENT OF THE CASE:

Jordan Durow (claimant) appealed an unemployment insurance decision dated June 21, 2011, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Papa John's Pizza (employer) without good cause attributable to the employer. A hearing was scheduled for July 28, 2011. The employer participated through Matt Gates, General Manager and Cayle Campbell, Area Supervisor. The claimant began to participate in the hearing but either hung up or was disconnected at approximately 9:08 a.m. The claimant was called twice at the number he had been previously contacted on and a message was left advising him that the hearing might not go forward without his participation. He was advised to call the Appeals Section and the number was provided. The claimant had not returned a call to the Appeals Section as of 3:00 p.m. on July 28, 2011. Based on the appellant's failure to participate in the hearing, the administrative file, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

The issue is whether the unemployment insurance decision previously entered in this case should be affirmed.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The appellant initially participated in the hearing but was disconnected and failed to contact the Appeals Section within the next six hours.

The administrative law judge has conducted a careful review of the available documents in the administrative file to determine whether the unemployment insurance decision should be affirmed.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

The administrative law judge has carefully reviewed evidence in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed. If the appellant does not present any evidence at the appeal hearing, the administrative law judge has no grounds in law or fact to reverse the initial decision.

Pursuant to the rule, the appellant must make a written request 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 beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

DECISION:

The unemployment insurance decision dated June 21, 2011, reference 01, is affirmed. The decision disqualifying the claimant from receiving benefits remains in effect.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css