

**IOWA WORKFORCE DEVELOPMENT DEPARTMENT
UNEMPLOYMENT INSURANCE APPEALS SECTION
1000 EAST GRAND AVENUE
DES MOINES IA 50319**

**Appeal Number: 05A-UI-07809-HT
OC: 06/06/05 R: 2
Claimant: Respondent**

**MARIA A ENDRES
#6C
1070 – 50TH ST
WEST DES MOINES IA 50266**

**WELLS FARGO BANK
C/O TALX EMPLOYER SERVICES
PO BOX 1160
COLUMBUS OH 43216-1160**

STATEMENT OF THE CASE:

The employer, Wells Fargo, filed an appeal from a decision dated July 21, 2005, reference 01, that concluded the claimant was qualified for benefits. A telephone hearing was scheduled for August 29, 2005. The appellant did not participate in the hearing and a decision was issued on the record August 31, 2005.

FINDINGS OF FACT:

The employer/appellant provided a telephone number where witnesses could be reached for the August 29, 2005, hearing. That number was dialed at 7:59 a.m., 8:00 a.m., 8:01 a.m., 8:03 a.m., 8:04 a.m., 8:05 a.m., 8:06 a.m., 8:07 a.m., 8:08 a.m. and 8:10 a.m. and the number was busy on each occasion.

Approximately 40 minutes after the scheduled start time for the hearing, after the record had been closed, a representative from TALX Employer Services called to say the witnesses had not received a call. When parties call in a phone number to the Appeals Section, they are notified to contact the Appeals Section if the judge has not called within five minutes after the

scheduled start time. The representative could not provide any explanation for having failed to call within that time frame, nor why the phone number was busy.

Precisely 15 days after the judge's decision was issued, TALX submitted a request to reopen the record. The basis for the request is that the witnesses were to take the call in a conference room and the phone there was disconnected. No one apparently checked to determine if the equipment was functional before providing that phone number, no one checked the phone the morning of the hearing to determine if it was functional, and no one called the Appeals Section within five minutes after the scheduled start time when the judge had not called.

The employer is a large company and fully familiar with the appeals process, having participated in it frequently.

REASONING AND CONCLUSIONS OF LAW:

In order to reopen the record of a hearing once it has been closed, 871 IAC 26.14(7) provides there must be good cause established by the party making the request. In the present case the administrative law judge cannot find the employer has established good cause.

The phone number provided by the employer was for a telephone which was disconnected. This is not the same as a phone line or service being expectedly interrupted or a system-wide failure due to bad weather or an underground cable being severed. This is the employer's failure to check and make sure the conference room phone line was working before giving that number. It is also the failure of the employer to contact the Appeals Section within five minutes of the start time to inquire why the judge had not called, in which case the employer could have provided a number to a phone which was operational. The fact the call was not made until a substantial amount of time had passed since the scheduled start time prevented a reasonable accommodation being made to allow the employer to participate.

ORDER:

The employer's request to reopen the record is denied.

Bonny G. Hendricksmeier
Administrative Law Judge

Dated and mailed:

bgh:kjw

Copies to all parties of record.