# BEFORE THE EMPLOYMENT APPEAL BOARD

Lucas State Office Building Fourth floor Des Moines, Iowa 50319

:

**CARYN J ROZEBOOM** 

**HEARING NUMBER:** 12B-UI-12230

Claimant,

.

and

EMPLOYMENT APPEAL BOARD

DECISION

RRL OTTUMWA LLC

Employer.

**SECTION:** 10A.601 Employment Appeal Board Review

### DECISION

#### FINDINGS OF FACT:

The notice of hearing in this matter was mailed October 19, 2012. The notice set a hearing for November 7, 2012. The Employer contacted the agency to provide a telephone number at which the Employer could be reached, and received a control number (#54). On the day of the hearing, the Employer did not appear for or participate in the hearing. The reason the Employer did not appear is because the administrative law judge was ill. Someone from the agency contacted the Employer to inform them that the agency was awaiting a call from the Claimant and would call the Employer back. The Claimant never called in, and the Employer was never called back. The administrative law judge's subsequently made a decision on the record without the benefit of the Employer's participation, which the Employer was ready to participate.

#### REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2011) 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 Employer did not participate in the hearing through no fault of the Employer. The Employer complied with the notice instructions and received a control number. However, due to the administrative law judge's illness, and the Claimant's unavailability to participate, the administrative law judge later made a decision on the record that was adverse to the Employer. The Employer was available to participate, but was not called back. As a result of these circumstances, the Employer was effectively denied due process. 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 November 15, 2012 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau. 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.

John A. Peno
Monique F. Kuester
Cloyd (Robby) Robinson

AMG/fnv