IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

AMY M DOTY
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL NO. 14A-UI-03217-DWT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 02/23/14
Claimant: Respondent (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:

The employer appeal a representative's March 13, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had been discharged for nondisqualifying reasons. Notices of hearing were mailed to the parties' last-known addresses of record informing them a telephone hearing would be held at 4:00 p.m. on April 22, 2014. A review of the Appeals Bureau's conference call system shows the employer/appellant was called for the hearing, but was not available at the telephone number provided for the hearing. The employer did not participate at the April 22 hearing.

ISSUE:

Should the appeal be dismissed when the employer/appellant did not participate in the hearing?

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The employer/appellant was not available at the telephone number provided for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The representative's March 13, 2014 determination concluded the claimant was qualified to receive unemployment insurance benefits.

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(7) provide that if the appealing party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rules further state that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. Iowa Admin. Code r. 871-26.14(7)c.

The employer/appellant appealed the representative March 13, 2014 determination, but failed to participate in the hearing. The employer/appellant defaulted on its appeal. Based on Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), the March 13, 2014 determination remains in full force and effect.

If the employer/appellant 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 the employer/appellant from participating in the hearing at its scheduled time.

DECISION:

The representative's March 13, 2014 determination (reference 01) is affirmed. The determination holding the claimant qualified to receive benefits as of February 23, 2014, remains in effect.

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

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Decision Dated and Mailed

dlw/pjs