

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

BRADLEY J FARNSWORTH
Claimant

NATIONAL VISION INC
Employer

APPEAL 22R-UI-15273-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/06/22
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 17A.12(3) – Default Decision or Proceed with Hearing
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default or Proceed with Hearing

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the March 21, 2022 (reference 01) unemployment insurance decision that allowed regular State of Iowa funded unemployment insurance benefits to the claimant finding he voluntarily quit with good cause attributable to the employer. The appeal was docketed in Appeal No. 22A-UI-08072-ED-T. The parties were notified of the hearing. A telephone hearing was originally held on May 13, 2022. The claimant did not participate in the May 13, 2022 hearing. The employer did participate in the May 13, 2022 hearing. Administrative law judge (ALJ) Emily Drenkow Carr issued a decision on June 8, 2022 finding that the claimant voluntarily quit employment without good cause attributable to the employer and benefits were denied on that basis. The claimant filed an appeal of the ALJ decision to the Employment Appeal Board (EAB). The EAB issued a decision in Appeal No. 22B-UI-08072 finding that the claimant did not receive the notice of hearing in time to make arrangements to attend the hearing. The matter was remanded to the Appeals Bureau for a new notice of hearing to be issued and set. The EAB did not vacate the original ALJ decision. A notice of hearing was mailed to both parties on August 8, 2022 for a new hearing date of August 26, 2022. Neither party called into the conference calling system, as directed by the hearing notice, for the August 26, 2022 hearing. The administrative law judge took official notice of the previous hearing record and incorporates it herein.

ISSUE:

Should the original ALJ decision be adopted herein?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: When the EAB remanded to this matter to the Appeals Bureau for a new hearing, it did not vacate the previous ALJ decision that was issued by ALJ Drenkow Carr on June 8, 2022 finding that the claimant was not eligible for benefits due to a voluntary quitting of work. The administrative law judge's findings of fact in Appeal No. 22A-UI-08072-ED-T are hereby adopted and incorporated herein as the findings of fact for this Appeal No. 22R-UI-15273-DB-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 17A.12(3) provides in pertinent part:

If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and make a decision in the absence of the party.

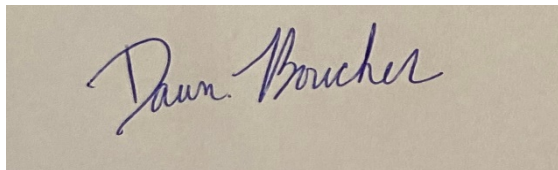
Iowa Admin. Code r. 26.14(7) provides in pertinent part:

If a 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 presiding officer may proceed with the hearing.

The appellant/employer participated in the hearing with ALJ Drenkow Carr on May 13, 2022. The matter was remanded to the Appeals Bureau based upon the request of the claimant to be allowed to participate in the hearing. The claimant received due notice of the new hearing date and time and chose not to participate. As such, the conclusions of law issued in Appeal No. 22A-UI-08072-ED-T are hereby adopted and incorporated herein as the conclusions of law for this Appeal No. 22R-UI-15273-DB-T. The claimant voluntarily quit work without good cause attributable to the employer. Benefits are denied on that basis.

DECISION:

Inasmuch as the decision was not vacated because of the EAB remand, the ALJ decision in Appeal No. 22A-UI-08072-ED-T is hereby adopted and incorporated herein as the decision for Appeal No. 22R-UI-15273-DB-T. The claimant voluntarily quit without good cause attributable to the employer. The decision dated March 21, 2022 (reference 01) unemployment insurance decision is reversed. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times the weekly benefit amount after the March 4, 2022 separation date, and provided they are otherwise eligible.



Dawn Boucher
Administrative Law Judge

October 3, 2022
Decision Dated and Mailed

db/kmj

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. *There is no filing fee to file an appeal with the Employment Appeal Board.*

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may file a petition for judicial review in district court.

2. If you do not file an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.