

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E SHORTELL
Claimant

APPEAL NO. 08O-UI-01295-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

**OC: 10/14/07 R: 02
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

This matter was before the administrative law judge upon a remand from the Employment Appeal Board in Appeal Number 08B-UI-11342. Claimant Mary Shortell is the appellant. Ms. Shortell filed a timely appeal from the December 4, 2007, reference 02, decision that denied benefits. Based on the remand from the Employment Appeal Board, a hearing was set for February 20, 2008 and the parties were properly notified. Ms. Shortell did not respond to the hearing notice instructions to provide a telephone number for the hearing and was not available. The employer was available through Frankie Patterson of Barnett Associates and Tracy Sargent of Qwest Corporation. Based on the claimant/appellant's failure to participate, the administrative file, and the law, the administrative law judge enters the following findings of fact, reasoning, conclusions, and decision.

ISSUE:

Decision on the record.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The appellant, Mary Shortell, did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. The appellant did not request a postponement of the hearing as required by the hearing notice. Ms. Shortell's hearing notice had not been returned to the Appeals Section as undeliverable for any reason.

The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment insurance decision should be affirmed. Included in the administrative file are the documents generated in connection with the fact-finding interview, the decision entered by Administrative Law Judge Susan Ackerman in Appeal Number 07A-UI-11342-BT and the documents generated in connection with the appeal to the Employment Appeal Board in 08B-UI-11342.

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.

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 Agency representatives December 4, 2007, reference 02, decision is affirmed. The decision disqualifying the claimant from receiving benefits remains in effect. This decision will

become final unless a written request establishing good cause to reopen the record is made to the administrative law judge within 15 days of the date of this decision.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs