

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

NATE H MICKELSON

Claimant,

and

CARGILL MEAT SOLUTIONS CORP

Employer.

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HEARING NUMBER: 12B-UI-12062

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 96.5-2-A

D E C I S I O N

FINDINGS OF FACT:

The notice of hearing in this matter was mailed October 16, 2012. The notice set a hearing for October 13, 2012. The employer via Barnett & Assoc, authorized representative, did not appear for or participate in the hearing. The reason the employer did not appear is because due to Hurricane Sandy, the employer's representative lost power and was unable to notify the agency or prepare the employer for the hearing.

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 an 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, through its authorized representative, did not participate in the hearing through no fault of the employer. The employer's representative experienced a loss of power as a result of Hurricane Sandy, which precluded them from following through with the appeals process. Having established good cause for their nonparticipation, the Board shall remand this matter for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated November 1, 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/ss