

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**SARAH A KULA**  
Claimant

**GREAT PLAINS SPECIALTY FINANCE**  
Employer

**APPEAL 18A-UI-09989-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/15/18**  
**Claimant: Appellant (6)**

Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default  
Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 96.3(5) – Benefit Duration - Business Closing  
Iowa Admin. Code r. 871-24.29(1) and (2) – Business Closing

**STATEMENT OF THE CASE:**

Claimant/appellant filed an appeal from the September 18, 2018, (reference 01) unemployment insurance decision that denied claimant extended unemployment insurance benefits but did not deny the 22.5 weeks of regular unemployment insurance benefits for which claimant is eligible. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for October 16, 2018, at 11:00 a.m. Claimant sent the Appeals Bureau a request to reschedule the hearing because she has started new employment. In her request, claimant stated her schedule during her last week of training from October 29 through November 2, would be 10:00 a.m. until 6:30 p.m. Therefore, the hearing was rescheduled for October 29, 2018, at 8:00 a.m. A review of the Appeals Bureau's conference call system indicates that the appellant was not available at the telephone number provided for the scheduled hearing and no hearing was held.

**ISSUE:**

Should the appeal be dismissed based on the appellant's failure to appear and participate?

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing for this appeal. The appellant was not available at the telephone number provided for the scheduled hearing and did not participate or timely request a postponement of the hearing as required by the hearing notice. Official notice of the Clear2there hearing control screen is taken to establish that appellant did not answer when called at the number provided at registration.

The hearing notice instruction specifically advises parties of the date and time of the hearing. It also states:

**IMPORTANT NOTICE!**

YOU MUST PROVIDE YOUR PHONE NUMBER TO THE APPEALS BUREAU AS SOON AS POSSIBLE. If you do not follow these instructions, the judge will not call you for the hearing. You must also provide the name(s) and phone number(s) of any witnesses to the Appeals Bureau.

The back page of the hearing notice provides further instruction and warning:

**Failure to Participate or Register for Appeal Hearing**

If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence. The Appeals Bureau does not have a phone number for this hearing unless you provide it to us by following the instructions on the other side of this page. If you do not follow those instructions, the judge will not call you for the hearing. 871 IAC 26.14(7).

The information quoted above also appears on the hearing notice in Spanish.

As a *courtesy* to the appellant the record was left open for a minimum of 15 minutes after the hearing start time to give the appellant a *reasonable* opportunity to participate. This reasonable amount of time is appropriate because if a hearing were conducted with the non-appealing party alone it would have likely concluded in 15 minutes or less. Allowing additional time would prejudice the non-appealing party for appearing in a timely manner. The 15 minute wait time is also a reasonable period to hold the record open as insufficient time would remain to conduct a quality due process hearing in the time allotted by the Appeals Bureau. Each two-party hearing is allowed 60 minutes and a one-party hearing allowed 30 minutes. Holding the appellant in default for failure to appear and participate during a 15 minute window after the hearing start time is entirely reasonable considering the time allocated for unemployment hearings.

**The representative's decision had concluded that the claimant was not eligible for extended unemployment insurance benefits after claimant exhausted her regular unemployment insurance benefits. Claimant is eligible for 22.5 weeks of regular unemployment insurance benefits and so far has only exhausted 10 of those weeks. Claimant will not be required to repay the 10 weeks of benefits she has received because of this dismissal of her appeal today.**

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure 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.

Iowa Admin. Code r. 871-26.14(7) provides:

(7) 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. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provide in Iowa Code section 17A.12(3). The record may be

reopened if the absent party makes a request to reopen the hearing in writing under subrule 26.8(3) and shows good cause for reopening the hearing.

- a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.
- b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party.
- c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

If the appellant disagrees with this decision, a written request to reopen the record must be made to the administrative law judge 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 good cause reason that prevented the appellant from participating in the hearing at the scheduled time. The appellant also has the option to appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

#### **DECISION:**

The September 18, 2018, (reference 01) unemployment insurance decision denying extended unemployment insurance benefits remains in effect as the appellant is in default and the appeal is dismissed. **Claimant is eligible for 22.5 weeks of regular unemployment insurance benefits and so far has only exhausted 10 of those weeks. Claimant will not be required to repay the 10 weeks of benefits she has received because of this dismissal of her appeal today.**

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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

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Decision Dated and Mailed

cal/scn