

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TARA M KLEIN**  
Claimant

**APPEAL NO. 06A-UI-10091-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MAD CAM INC  
MABE'S PIZZA**  
Employer

**OC: 09/03/06 R: 04**  
**Claimant: Appellant (1)**

871 IAC 26.8(5) - Decision on the Record

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated October 11, 2006, reference 03, that concluded the claimant was discharged for misconduct. A telephone hearing was held on October 30, 2006. The parties were properly notified about the hearing. The claimant did not participate in the hearing. Joyce Perry participated in the hearing on behalf of the employer. Based on the appellant's failure to participate in the hearing, the administrative file, the testimony of Ms. Perry and the law, the administrative law judge enters the following findings of fact reasoning and conclusions of law.

**ISSUE:**

At issue is whether the claimant was discharged for disqualifying conduct in connection with her work.

**FINDINGS OF FACT:**

The parties were properly notified of the hearing. The appellant failed to provide a telephone number for the hearing and did not request a postponement as required by the hearing notice. There is no evidence the hearing notice was returned as undeliverable by the postal service.

The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment decision should be affirmed.

**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 concludes ,after a careful review of the file that the decision in this matter should be affirmed as it is correct.

Pursuant to the rule, the appellant must make a written request to the administrative law judge that the matter be reopened within 15 days after the mailing of this decision. The request must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

**DECISION:**

The unemployment insurance decision dated October 11, 2006, reference 03, is affirmed. The claimant was discharged for misconduct in connection with her work.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tpn/pjs