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

BRYAN L CLARK	
Claimant	: HEARING NUMBER: 20BUI-06050
and	EMPLOYMENT APPEAL BOARD
CAPITAL LANDSCAPING LLC	E DECISION
Employer	

SECTION: 17A.12-3, 26.14-710A.601 Employment Appeal Board Review

# DECISION

## FINDINGS OF FACT:

The notice of hearing in this matter was mailed June 23, 2020. The notice set a hearing for July 15, 2020. The Employer registered his contact information according to the notice instructions. On the day of the hearing, the Employer did not appear for or participate in the hearing. The reason the Employer did not appear is because he was experiencing technical difficulties with his phone system and was unable to return the administrative law judge's call that came up visually. The Employer attempted to contact the administrative law judge at approximately 17 minutes after the start of the scheduled hearing, but his call would not go through.

#### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2019) 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 did not participate in the hearing through no fault of his own. He complied with the notice instructions by registering his contact information. However, when he got the call, it only registered on his phone system visually. His attempt to call back was unsuccessful. It is clear the Employer intended to follow through with the appeals process. The Employer has provided good cause for his nonparticipation. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Employer may avail himself of his due process right.

We caution the Employer that, barring exceptional circumstances, we will not again excuse a failure to call in a number where the Employer could be reached.

## **DECISION:**

The decision of the administrative law judge dated July 23, 2020 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. 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.

James M. Strohman

Myron R. Linn

AMG/fnv