

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JANIE D DAVISON**  
Claimant

**VA CENTRAL IA HEALTHCARE**  
Employer

**APPEAL 21A-UCFE-00010-ML-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/14/21  
Claimant: Appellant (6)**

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Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

On February 14, 2021, claimant/appellant filed an appeal from the March 29, 2021, (reference 01) unemployment insurance decision that concluded she was not eligible to receive unemployment insurance benefits. Iowa Workforce Development mailed a hearing notice to the claimant and employer for a telephone hearing scheduled for June 1, 2021, at 12:00 p.m. A review of the Appeals Bureau's conference call system indicates that the claimant/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 claimant's failure to appear and participate?

**FINDINGS OF FACT:**

The claimant and employer were properly notified of the scheduled hearing for this appeal. The claimant provided the Appeals Bureau with a phone number for the scheduled hearing; however, she was not available at the telephone number provided for the scheduled hearing and did not participate or 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.

The administrative law judge held the record open for 15 minutes past the scheduled start time to allow the claimant a reasonable opportunity to participate. Holding the appellant in default for failure to appear and participate during a 15-minute window after the hearing start time is reasonable considering the time allocated for unemployment hearings. Claimant did not call the Appeals Bureau during that time frame.

The unemployment insurance decision appealed by claimant concluded that the claimant was not eligible to receive unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) states that if a party fails to appear for or participate in a hearing after being properly notified, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party.

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 in writing to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

In this case, the claimant was not available at the telephone number provided for the scheduled hearing and did not participate or request a postponement of the hearing as required by the hearing notice. Therefore, the claimant/appellant is in default and the appeal is dismissed.

If the claimant disagrees with this decision, the claimant may appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

**DECISION:**

The March 29, 2021, unemployment insurance decision denying benefits remains in effect as the claimant is in default and the appeal is dismissed.



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

June 14, 2021  
Decision Dated and Mailed

mjl/scn