

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**LISA R WILLIS**  
Claimant

**BETHANY MANOR INC**  
Employer

**APPEAL 19A-UI-03124-NM**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/24/19**  
**Claimant: Appellant (6)**

---

Iowa Code § 96.5(2)a – Discharge Misconduct  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(6) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

On April 13, 2019, an appeal was filed from an unemployment insurance decision dated April 10, 2019, (reference 01) that denied claimant benefits based upon her discharge for violation of a known company rule. Notice of hearing was mailed to the parties' last known addresses of record for a hearing to be held in Des Moines, Iowa, at 11:00 a.m. on May 2, 2019. The claimant/appellant failed to appear in response to the hearing notice instruction and no hearing was held.

**ISSUE:**

Should the appeal be dismissed based upon the appellant not responding to the hearing notice instruction and not appearing for the scheduled hearing?

**FINDINGS OF FACT:**

The party was properly notified of the scheduled hearing on this appeal. The appellant requested the in-person hearing, claimant failed to respond to the hearing notice instruction to appear for the scheduled hearing at 1000 E Grand Ave., Des Moines, Iowa, at the scheduled hearing start time of 11:00 a.m. On May 1, 2019 claimant called the appeals bureau help line to ask about how to request a hearing be rescheduled. Claimant was advised the appeals bureau staff that we needed her request in writing and that it should state the reason she was asking for a postponement as well as days she was available should the hearing be rescheduled. Claimant was further advised by the staff member that she should send the request via fax or email in order for the administrative law judge to receive it prior to the hearing. Finally, claimant was advised someone from the appeals bureau would contact her once the request was received, that she should not assume the request had been granted, and that if she did not hear anything she should assume to hearing was proceeding as scheduled. Claimant did not submit a request for postponement of the hearing. The unemployment insurance decision concluded that the claimant/appellant is not eligible for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code section 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.

Iowa Admin. Code r. 871-26.14(6) provides:

(6) If one or more parties which received notice for a contested case hearing fail to appear at the time and place of an in-person hearing, the presiding officer may proceed with the hearing. If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal. The hearing 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.

a. If an absent party arrives for an in-person hearing while the hearing is in session, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party arrives for an in-person hearing after the record has been closed and after any party which had participated in the hearing has departed, the presiding officer shall not take the evidence of the late party.

The appellant appealed the unemployment insurance decision but failed to appear to participate in the hearing. The appellant has therefore defaulted on the appeal pursuant to Iowa Code section 17A.12(3) and Iowa Admin. Code r. 871-26.14(6), and the unemployment insurance decision remains in force and effect.

**DECISION:**

The appellant is in default and the appeal is dismissed. The unemployment insurance decision dated April 10, 2019, (reference 01) denying benefits remains in effect.

---

Nicole Merrill  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-242-5144

---

Decision Dated and Mailed

nm/rvs