

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMY D ALERTSEN

Claimant

APPEAL NO. 13A-UI-08278-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JELD-WEN INC

Employer

OC: 06/02/13

Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated July 8, 2013, reference 02, that denied unemployment insurance benefits. A telephone hearing was scheduled for August 20, 2013. The claimant, the appellant herein, did not participate in the hearing by being available at the telephone number provided. The employer participated by Ms. Susan Chmelovsky, Hearing Representative and witness, Mr. Travis Smith. Employer's Exhibit A was received into evidence. Based upon the appellant's failure to participate in the hearing, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

At issue in this matter is whether the decision previously entered should be affirmed.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The appellant failed to provide a telephone number at which he could be reached for the hearing and did not participate or request a postponement of the hearing as required by the hearing notice.

Jeremy Albertsen was employed Jeld-Wen, Inc. from February 13, 2006 until March 15, 2013 when he was discharged for exceeding the permissible number of attendance infractions under established company policy. Mr. Albertsen was employed as a full-time production worker working 7:00 a.m. until 3:00 p.m., Monday through Friday, and was paid by the hour.

Employees are subject to discharge if they accumulate eight attendance infraction points within a rolling twelve-month period. The claimant was aware of the policy and had received a final warning on March 11, 2013. The claimant was discharged when he exceeded the permissible number of infractions by reporting to work late on March 15, 2013 due to "oversleeping." The claimant had a number of absences and tardies during the most recent year related to the illness of a family member. The claimant had completed FMLA paperwork and none of those

attendance infractions were counted against the claimant in determining whether he exceeded the number of infraction points allowed under policy.

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 has carefully reviewed the evidence in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

DECISION:

The unemployment insurance decision dated July 8, 2013, reference 02, is affirmed. The representative's decision disqualifying the claimant from receiving benefits remains in effect. Benefits are denied until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css