

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**STEPHEN R LANGE**  
Claimant

**LOWE'S HOME CENTERS LLC**  
Employer

**APPEAL 21A-UI-04152-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/08/20**  
**Claimant: Respondent (6)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

The employer/appellant, Lowe's Home Centers LLC., filed an appeal from the January 22, 2021 (reference 01) Iowa Workforce Development ("IWD") unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was scheduled to be held on April 5, 2021. The claimant, Stephen R. Lange, participated. The employer participated through Stephanie Shoemaker. The hearing was continued to allow Mr. Lange to resubmit his exhibits to both the Appeals Bureau and Employer.

After proper notice, a telephone hearing was scheduled for May 17, 2021 at 8:00 a.m. Both parties reregistered their contact information for the hearing. The appellant registered a phone number with the Appeals Bureau as directed on the hearing notice, but was not available when called for the hearing. A voicemail was provided, directing the appellant to call the Appeals Bureau immediately to participate. A grace period was extended to allow the appellant to respond before the record was closed. No hearing was held.

**ISSUE:**

Should the appeal be dismissed based on the appellant's failure to appear and participate?

**FINDINGS OF FACT:**

Iowa Workforce Development notified employer of the hearing. The employer was unavailable when called at the time of hearing and did not respond to the voicemail directing it to call the Appeals Bureau immediately to participate.

The hearing notice instruction specifically advises employer of the date and time of the hearing. 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.

As a courtesy to the employer, the administrative law judge left the record open for 15 minutes past the scheduled time of the hearing to give the employer a reasonable amount of time to call the Appeals Bureau to participate. Employer did not contact the Appeals Bureau or otherwise register for the hearing during that time period.

The initial unemployment insurance decision allowed benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code § 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(7) provides, in relevant part:

(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).

In this case, employer failed to be available at the time of the hearing when called. The employer is in default and the appeal is dismissed.

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

**DECISION:**

The January 22, 2021, (reference 01) unemployment insurance decision allowing benefits remains in effect as the appellant is in default.



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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

May 24, 2021  
Decision Dated and Mailed

jlb/scn