IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

LYNSEY A URBAN Claimant **IOWA WORKFORCE DEVELOPMENT DEPARTMENT**	**APPEAL 17A-UI-11442-DG-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 05/07/17** **Claimant: Appellant (6)**

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

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated October 24, 2017 (reference 04), that held claimant had been overpaid benefits. Notice of hearing was mailed to the party's last known addresses of record for a telephone hearing to be held at 3:10 p.m. on November 29, 2017. A review of the Appeals Bureau's conference call system shows the claimant/appellant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing.

ISSUE:

Should the appeal be dismissed based upon the appellant not participating in the hearing?

FINDINGS OF FACT:

The party was properly notified of the scheduled hearing on this appeal. The appellant failed to provide a telephone number at which she could be reached for the hearing.

The representative's decision concluded that the appellant had been overpaid unemployment insurance 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. The statute further states that if a party makes a timely request in writing to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

Agency rule Iowa Admin. Code r. 871-26.14(7) provides that if the appealing 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 judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a written request to reopen the hearing and shows good cause for reopening the hearing. The rule further states that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. Iowa Admin. Code r. 871-26.14(7)c.

The appellant appealed the unemployment insurance decision but failed to participate in the hearing. The appellant has therefore defaulted on her appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the decision remains in force and effect.

If the appellant disagrees with this decision, a request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the emergency or other good cause that prevented the claimant/appellant from participating in the hearing at the scheduled time.

DECISION:

The unemployment insurance decision dated October 24, 2017, (reference 04), is affirmed. The decision that held claimant was overpaid benefits remains in effect.

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

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Decision Dated and Mailed

dlg/scn