

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RASIM KANTAREVIC**  
Claimant

**APPEAL NO: 14A-UI-05600-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 04/27/14**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
871 IAC 24.23(10) – Leave of Absence  
871 IAC 26.14(7)b, c – Request to Reopen Hearing

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's May 28, 2014 (reference 01) determination that determined the claimant was not eligible to receive benefits as of April 27, 2014 because he was on a leave of absence. The claimant did not respond to the hearing notice before the scheduled hearing at 11:30 a.m. on June 24. Kristi Fox appeared on the employer's behalf at the scheduled hearing.

The claimant contacted the Appeals Bureau about 20 minutes after the scheduled hearing. By the time the claimant called, the employer had been excused and the hearing was closed. The claimant requested that the hearing be reopened. Based on the claimant's request to reopen the hearing, the administrative record, and the law, the administrative law judge must deny the claimant's request to reopen the hearing and finds him ineligible to receive benefits as of April 27, 2014.

**ISSUES:**

Did the claimant establish good cause to reopen the hearing?

Did the claimant request a leave of absence?

**FINDINGS OF FACT:**

The claimant started working for the employer in March 2000. The claimant went on a personal leave of absence on February 25, 2014. The claimant's personal leave of absence ends on February 25, 2015. The employer granted the claimant a leave of absence because of the claimant's work restrictions. While the claimant is on the leave of absence, he can bid on other jobs the employer has available that meet his work restrictions.

The claimant received the hearing notice during the week of June 15. He noticed the day and time of the hearing, but did not read the hearing instructions. The claimant reads and understands English.

When the claimant was not called for the hearing, he called at 11:49 a.m. By the time the claimant called, the employer had been excused and the hearing had been closed. The claimant requested that the hearing be reopened.

**REASONING AND CONCLUSIONS OF LAW:**

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The claimant acknowledged that he reads and understands English. The claimant also admitted he received the hearing notice prior to the scheduled June 24 hearing. While the claimant noticed the date and time of the scheduled June 24 hearing, he did not read the hearing notice instructions. As a result, he did not call the Appeals Bureau to provide the phone number he could be contacted for the hearing before the scheduled hearing. The claimant also did not read that he could have provided his phone number by going online. The claimant did not establish good cause to reopen the hearing because even though he had a reasonable amount of time to read the hearing notice instructions, he did not. The claimant's request to reopen the hearing is denied.

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). The law presumes a claimant who is on a leave of absence is not voluntarily unemployed. 871 IAC 24.23(10). In other words, the claimant is not eligible to receive benefits as of April 27, 2014.

**DECISION:**

The claimant's request to reopen the hearing is denied because he did not establish good cause. The representative's May 28, 2014 (reference 01) determination is affirmed. The claimant is currently on a leave of absence and is not eligible to receive benefits as of April 27, 2014.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/can