

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

GERMAINE K ROBINSON
Claimant

L A LEASING INC
Employer

APPEAL 16R-UI-13243-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/06/15
Claimant: Respondent (4)**

Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Code Ch. 96 – Iowa Employment Security Act

STATEMENT OF THE CASE:

The employer filed an appeal from the September 30, 2016 (reference 11) decision that allowed the claimant benefits. A hearing was scheduled and conducted on October 24, 2016, and the employer participated. A hearing decision was rendered (See appeal number: 16A-UI-13243-DL-T). The claimant did not participate and requested the hearing be reopened. After the Employment Appeal Board (EAB) remanded, due notice was issued, and a hearing was scheduled to be held at 8:00 a.m. on January 9, 2017. The claimant's address of record has been as stated above during the entire claim process thus far. A review of the Appeals Bureau's conference call system after 8:15 a.m. the same day shows the claimant failed to respond to the hearing notice instruction and provide a telephone number at which he could be reached for the scheduled hearing, and no hearing was held.

Because the EAB did not vacate the original appeal decision number 16A-UI-13243-DL-T, that hearing record is adopted and incorporated herein.

ISSUE:

Should the original appeal hearing decision be adopted?

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The hearing for January 9, 2017 was scheduled based on the claimant's request to reopen the record after he failed to participate in the October 24, 2016 hearing. The claimant, Germaine K. Robinson, failed to respond to the hearing notice instruction and provide a telephone number at which he could be reached, nor did he request a postponement of the hearing as required by the hearing notice.

The hearing notice instruction specifically advised the parties:
Date: MON JAN 09, 2017

Iowa Time: 8:00 a.m.

You must register for the hearing immediately!

You must register your phone number and the name(s) and phone number(s) of any witness(es) with the Appeals Bureau. If you do not register, the judge will not be able to call you or your witness(es) for the hearing.

The administrative law judge's decision (Appeal Number: 16A-UI-13243-DL-T) concluded that the claimant was disqualified for unemployment insurance benefits and had been overpaid benefits. The employer was relieved of charges.

Having reviewed all of the evidence in the record, the administrative law judge finds: Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's findings of fact in appeal number 16A-UI-13243-DL-T is hereby adopted and incorporated herein as the findings of fact for appeal number 16-R-UI-13243-JC-T. This decision adds: Colleen McGuinty and Trisha Kaiser, not Michael Payne, participated on behalf of the employer in the October 24, 2016 hearing.

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 to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing. The claimant, Germaine K. Robinson, appealed administrative law judge's decision but failed to be available to participate in the second scheduled hearing.

For the reasons that follow, the administrative law judge concludes that inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's reasoning and conclusions of law in appeal number 16A-UI-13243-DL-T is hereby adopted and incorporated herein as the findings of fact for appeal number 16-R-UI-13243-JC-T.

DECISION:

The September 30, 2016 (reference 11) decision is modified in favor of the employer/appellant. Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's decision in appeal number 16A-UI-13243-DL-T is hereby adopted and incorporated herein as the findings of fact for appeal number 16-R-UI-13243-JC-T.

The administrative law judge's decision for appeal number 16A-UI-13243-DL-T denying benefits remains in effect. Because the claimant left without good cause attributable to the employer, benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefits amount, provided he is otherwise eligible. The claimant has been overpaid unemployment insurance benefits in the amount of \$1652.00 and is obligated to repay

the agency those benefits. The employer did participate in the fact-finding interview and its account shall not be charged.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs