

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAIL URWIN
Claimant

APPEAL NO. 11A-UI-03088-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLIED WASTE NORTH AMERICA INC
Employer

**OC: 01/16/11
Claimant: Respondent (1)**

Section 96.5-2-A – Discharge for Misconduct
Section 17A.12-3 – Non-appearance of a Party
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

The employer filed an appeal from an unemployment insurance decision dated March 3, 2011, reference 02, which concluded that the claimant was eligible for unemployment insurance benefits. A telephone hearing was scheduled for April 4, 2011. The claimant responded to the notice and was available when called by the administrative law judge. The employer did not respond to the hearing notice and did not participate in the hearing. The administrative law judge explained to the claimant that a decision could be based on the record in this case. The claimant consented. Based on the appellant's failure to participate in the hearing, the administrative file, and the law, the following findings of fact, reasoning and conclusions of law and decision are entered.

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 it could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

A careful review of the information in the administrative file has been conducted to determine whether the unemployment insurance decision should be affirmed.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedures Act section 17A.12-3 provides in pertinent part:

If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and make a decision in the absence of the party. ... If a decision is rendered against a party who failed to appear for the hearing and the presiding officer is timely requested by that party to vacate the decision for good cause, the time for initiating a further appeal is stayed pending a determination by the presiding officer to

grant or deny the request. If adequate reasons are provided showing good cause for the party's failure to appear, the presiding officer shall vacate the decision and, after proper service of notice, conduct another evidentiary hearing. If adequate reasons are not provided showing good cause for the party's failure to appear, the presiding officer shall deny the motion to vacate.

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The administrative law judge has carefully reviewed the information in the administrative file in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

Pursuant to the statute and the rule, the appellant must make a written request to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

DECISION:

The unemployment insurance decision dated March 3, 2011, reference 02, is affirmed and holding the claimant qualified for benefits remains in effect. This decision will become final unless a written request establishing good cause to reopen the record is made to the administrative law judge within 15 days of the date of this decision.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css