

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERISE A WINKELPLECK
Claimant

APPEAL 21R-UI-07153-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RETTIG ENTERPRISES INC
Employer

**OC: 03/22/20
Claimant: Respondent (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

Employer filed an appeal from the November 3, 2020, (reference 01) unemployment insurance decision that allowed benefits. A first hearing was scheduled between the parties for January 12, 2021. The employer participated. The claimant did not register a phone number with the Appeals Bureau and did not participate. The initial decision was reversed by the administrative law judge in Appeal 20A-UI-14568-S2-T.

The claimant successfully requested reopening of the hearing to the Employment Appeal Board (EAB) who remanded this matter for a new hearing. Iowa Workforce Development mailed a notice of hearing to claimant's last address of record. The hearing was scheduled for May 19, 2021, at 1:00 p.m. Claimant did not provide a telephone number to the Appeals Bureau prior to the scheduled hearing. No hearing was held.

Because the Employment Appeal Board did not vacate the original appeal decision number 20A-UI-14568-S2-T, that hearing record is adopted and incorporated herein.

ISSUE:

Should the original appeal hearing decision be adopted?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The parties were properly notified of the scheduled hearing for this appeal, which was scheduled based upon the claimant's appeal to the Employment Appeal Board.

Iowa Workforce Development notified claimant of the hearing. The claimant did not respond to the hearing notice or otherwise provide a telephone number to the Appeals Bureau. Claimant

did not participate in the hearing or request a postponement. Claimant did not follow the instructions on the hearing notice. Official notice is taken of the hearing control screen to establish that claimant did not provide a telephone number to the Appeals Bureau prior to the time of the scheduled hearing.

The hearing notice instruction specifically advises claimant of the date and time of the hearing. It also states:

IMPORTANT NOTICE!

YOU MUST PROVIDE YOUR PHONE NUMBER TO THE APPEALS BUREAU AS SOON AS POSSIBLE. If you do not follow these instructions, the judge will not call you for the hearing. You must also provide the name(s) and phone number(s) of any witnesses to the Appeals Bureau.

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).

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

The appeals hearing decision concluded that the claimant was ineligible for unemployment insurance benefits. Inasmuch as the hearing decision was not vacated as a result of the Employment Appeal Board remand, the original appeal decision number 20A-UI-14568-S2-T, that hearing record is adopted and incorporated herein.

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, Terise A. Winkelpack, 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 20A-UI-14568-S2-T is hereby adopted and incorporated herein as the findings of fact for appeal number 21R-UI-07153-JC-T.

DECISION:

The November 3, 2020 (reference 01) 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 20A-UI-14568-S2-T is hereby adopted and incorporated herein as the findings of fact for appeal number 21R-UI-07153-JC-T.



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 27, 2021
Decision Dated and Mailed

jlb/scn

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>