

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

JENNIFER M MADSEN

Claimant

and

MARY GREELEY MEDICAL CENTER

Employer

HEARING NUMBER: 18BUI-09765

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed September 27, 2018. The notice set a hearing for October 9, 2018. The Claimant registered her phone number to be called for the hearing. However on the day of the hearing, the Claimant was did not answer the call. Unbeknownst to the Claimant at the time, she inadvertently registered the incorrect number. When she realized she hadn't received a call, she attempted to contact the agency, but experienced difficulty in the connection. By the time she got through, the record has been closed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2015) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

Here the Claimant did not participate in the hearing due to registering an incorrect telephone number. When she contacted the agency upon realizing she didn't get a call, her call got through too late to be considered for participation. It is clear the Claimant intended to follow through with the appeal process. We find the Claimant established good cause for her nonparticipation. We shall remand this matter for another hearing before an administrative law judge so that the Claimant may avail herself of her due process right.

We caution the Claimant that, barring exceptional circumstances, we will not again excuse a failure to call in a number where the Claimant could be reached.

DECISION:

The decision of the administrative law judge dated October 10, 2018 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv