

**IOWA WORKFORCE DEVELOPMENT DEPARTMENT
UNEMPLOYMENT INSURANCE APPEALS SECTION
1000 EAST GRAND AVENUE
DES MOINES IA 50319**

**Appeal Number: 06A-UI-02680-DWT
OC: 05/29/05 R: 04
Claimant: Appellant**

**MILTON SERRANO SR
924 LAKE PARK BLVD
MUSCATINE IA 52761**

**TYSON FRESH MEATS INC
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166 0283**

ORDER DENYING REQUEST TO REOPEN RECORD

On March 31, 2006, a decision was issued based information contained in the administrative record in the above case. The claimant properly responded to the hearing notice and provided a phone number in which to call him for the March 30, 2006 noon hearing. The claimant was not available for the noon hearing and a message was left for him to contact the Appeals Section immediately.

The claimant forgot about the hearing on March 30 and was not available to answer the phone call because he was with a friend. The claimant forgot to take the cell phone with him. Around 2:00 p.m., the claimant contacted the Appeals Section. The claimant requested that the hearing be reopened.

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

At issue is a request to reopen the record made after the hearing had concluded. The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

Based on the above facts, the claimant did not establish good cause to set aside the March 31, 2006 decision and reopen this matter.

It is Ordered that the claimant's request to set aside the March 31, 2006 decision and reopen this matter is denied.

If the parties disagree with this Order, within fifteen (15) days from the date below, an interested party to the appeal may appeal to the Employment Appeal Board by submitting a signed letter or a signed written Notice of Appeal to Employment Appeal Board, 4th Floor – Lucas Building, Des Moines, Iowa 50319.

Debra L. Wise
Administrative Law Judge

Dated and mailed:

dlw:tjc

Copies to all parties of record.