

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHAUN M SCHMEISER**

Claimant

**APPEAL NO. 06A-UI-11010-NT**

**ORDER APPROVING REQUEST  
TO REOPEN RECORD**

**LOWE'S HOME CENTERS INC.**

Employer

**OC: 10-08-06 R: 04**

**Claimant: appellant**

On February 6, 2007 a hearing was held by telephone conference call at which time the claimant participated and was represented by his attorney Mr. Toby Gordon. This matter had previously been reset for hearing based upon the employer's failure stated intention not to comply with a subpoena Dues Tecum that had been issued at the claimant's request for the employer to supply the claimant's personnel file and copies of time cards or other documents that were relevant to the claimant's separation from employment. After the employer's second refusal to supply these subpoenaed documents, the employer agreed in writing to the submission and the matter was rescheduled for hearing on November 6, 2007 by a telephone conference call.

The administrative law judge noted that telephone numbers for the claimant and his attorney had been submitted. As the claimant was the appellant, the hearing proceeded. Subsequently it was determined that Nancy Helmick, the employer's witness had submitted a telephone number for one of the two hearings scheduled for the claimant that day ~~hearing~~, but the number had been overlooked. Although hearing participants are required to be informed that they must call in within five minutes of the scheduled hearing time, if they are not called by the administrative law judge, Ms. Helmick did not call in per the verbal usual instructions. After the conclusion of the hearing on February 6, 2007, Ms. Helmick called to inquire about the hearing and why she had not been called. Ms. Helmick denies receiving verbal instructions regarding the five-minute call in rule. By written request dated February 12, 2007 and received on February 16, 2007 the employer, ~~through Ms. Helmick,~~ makes a written request to reopen the hearing based upon Ms Hekmick's ~~her~~ exclusion as a witness during the hearing of the matter on February 6, 2007.

The respondent ~~requests~~~~requestes~~ any decision in this matter be set aside and the hearing reopened because the respondent was precluded from presenting evidence after submitting a telephone number for the telephone hearing.

Ref 94

(last sentence of reference code 94 to read;  ~~) and )~~— the employer's request to reopen the record is based upon Ms. Helmick's assertion that she was not provided verbal instructions to call if not called by the administrative law judge within five minutes of the scheduled hearing time. Because these instructions could not be complied with by reading and following the written Instructions on the hearing notice the request to reopen the record must be approved..

Based on the above facts, the respondent has established good cause to reopen this matter.

It is Ordered that the respondents request to reopen this matter is granted.

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Terence P. Nice  
Administrative Law Judge

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Order Dated and Mailed

tpn/