

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

KHALID A SABRI

Claimant

and

WAL-MART STORES INC

Employer

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HEARING NUMBER: 17BUI-03906

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

The notice of hearing in this matter was mailed April 19, 2017. The notice set a hearing for May 10, 2017. The Employer via the Employer's representative contacted the agency the day before the hearing to provide a telephone number at which he and the Employer could be contacted to participate in the hearing. On the day of the hearing, however, neither received a call. When the Employer contacted the agency, he was told his testimony was not needed, as the only issue was the timeliness of the protest.

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 an 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 Employer did not participate in the hearing through no fault of the Employer. The Employer followed the notice instructions by providing a telephone number, but was not called to participate. The Employer has provided good cause for its nonparticipation. For this reason, the

matter will be remanded for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated May 11, 2017 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