



**DECISION:**

The decision of the administrative law judge dated September 8, 2011 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau. 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.

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Monique F. Kuester

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Elizabeth L. Seiser

**DISSENTING OPINION OF JOHN A. PENO:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would deny the employer's remand request for a new hearing, and AFFIRM the administrative law judge's decision in its entirety. This is one of three cases involving the same employer with identical issues. I can understand how the employer's failure to call in after not receiving the administrative law judge's call for the first hearing (Kyle Davis) would be excusable and worthy of a remand. But, with regard to the second and third cases, it would seem that the employer's representative would have known that if no-call was received from the administrative law judge, then the employer should have called in within a reasonable time after the scheduled time of the hearing. The employer's failure to do so does not establish good cause to hold a new hearing.

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John A. Peno

AMGkk