

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD S BEST**

Claimant

**APPEAL NO: 09A-UI-14560-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/12/09**

**Claimant: Appellant (1)**

Section 96.5-2-a - Discharge  
Section 17A.12(3) – Default  
871 IAC 26.14(7) – Late Call

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated September 25, 2009, reference 03, that held the department is withholding his Arizona \$5,166.00 overpayment from his current benefit entitlement. A telephone hearing was scheduled for October 26, 2009. The claimant did not participate.

**ISSUE:**

Whether the department is correctly withholding his benefits to collect an out-of-state overpayment.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, finds: The claimant failed to respond to the hearing notice and provide a telephone number to be contacted for the hearing. The claimant is defaulted for his failure to appear.

The claimant called in well after the scheduled start time, as he failed to follow the hearing notice instructions.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The administrative law judge concludes the claimant is defaulted due to his failure to appear (respond to the hearing notice), and the department may collect any current benefit to apply against his Arizona overpayment.

The claimant appealed the department decision, but failed to appear for the hearing to contest the discharge. The claimant is defaulted pursuant to Iowa Code section 17A.12(3), and the department decision remains in force and effect. Failing to read and follow the hearing notice instructions is not a good cause to reopen the hearing.

**DECISION:**

The department decision dated September 25, 2009, reference 03, is affirmed. The department may collect the Arizona overpayment from claimant's benefits.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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