

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

RONALD D WORTHAM
Claimant

APPEAL NO: 19A-UI-05023-JT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**AERON ADVANCED MANUFACTURING
LLC**
Employer

OC: 06/02/19
Claimant: Appellant (6)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

Ronald Wortham filed a timely appeal from the June 20, 2019, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Mr. Wortham voluntarily quit on May 23, 2019 without good cause attributable to the employer. Mr. Wortham requested an in-person appeal hearing. A notice of hearing was mailed to the parties' last-known addresses of record for a telephone hearing to be held at the Mason City IowaWORKS Center at 9:00 a.m. on September 17, 2019. Employer representative Chris Jackson appeared on behalf of the employer. Mr. Jackson drove from Fairfield, Iowa to Mason City, Iowa to participate in the appeal hearing. Mr. Wortham did not appear for the hearing. Based upon the claimant/appellant's failure to participate in the hearing and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

Should the appeal be dismissed based upon the claimant/appellant not participating in the hearing?

FINDINGS OF FACT:

Claimant Ronald Wortham is the appellant in this matter. Mr. Wortham requested an in-person appeal hearing. Mr. Wortham was properly notified of the appeal hearing set for 9:00 a.m. on September 17, 2019 at the Mason City IowaWORKS Center through the hearing notice that was mailed to his last-known address of record on August 19, 2019. Mr. Wortham did not appear for the appeal hearing. Mr. Wortham did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The June 20, 2019, reference 01, decision disqualified Mr. Wortham for benefits and relieved the employer's account of liability for benefits, based on the deputy's conclusion that Mr. Wortham voluntarily quit on May 23, 2019 without good cause attributable to the employer.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedures Act at Iowa Code § 17A.12(3) provides in pertinent part:

If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and make a decision in the absence of the party. ... If a decision is rendered against a party who failed to appear for the hearing and the presiding officer is timely requested by that party to vacate the decision for good cause, the time for initiating a further appeal is stayed pending a determination by the presiding officer to grant or deny the request. If adequate reasons are provided showing good cause for the party's failure to appear, the presiding officer shall vacate the decision and, after proper service of notice, conduct another evidentiary hearing. If adequate reasons are not provided showing good cause for the party's failure to appear, the presiding officer shall deny the motion to vacate.

Iowa Administrative Code rule 871-26.14(6) provides:

If one or more parties which received notice for a contested case hearing fail to appear at the time and place of an in-person hearing, the presiding officer may proceed with the hearing. If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal. The hearing may be reopened if the absent party makes a request in writing to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party arrives for an in-person hearing while the hearing is in session, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party arrives for an in-person hearing after the record has been closed and after any party which had participated in the hearing has departed, the presiding officer shall not take the evidence of the late party.

The claimant/appellant appealed the representative's decision, but failed to participate in the appeal hearing as scheduled. Based on that failure to appear as scheduled for the in-person hearing, the claimant/appellant defaulted on his appeal pursuant to Iowa Code §17A.12(3) and Iowa Admin. Code r. 871-24.14(7).

If the claimant/appellant disagrees with this decision, pursuant to the rule, the claimant/appellant must make a written request to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the good cause that prevented the claimant/appellant from participating in the hearing at its scheduled time.

DECISION:

The claimant's appeal is dismissed. The June 20, 2019, reference 01, decision that disqualified the claimant for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the claimant voluntarily quit on May 23, 2019 without good cause attributable to the employer, remains in effect.

James E. Timberland
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Decision Dated and Mailed

jet/rvs