

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

ASHLEY L HAMMER

Claimant

and

COUNTRY WINDS MANOR INC

Employer

HEARING NUMBER: 18BUI-09610

**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 September 21, 2018. The notice set a hearing for October 4, 2018. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Claimant has a cognitive disability and did not fully understand the notice instructions. She did not understand she needed to provide a telephone number at which she could be reached. She did not know the hearing was taking place when she didn't receive the call.

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 a 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 Claimant did not participate in the hearing through no fault of the Claimant. The Claimant has difficulty understanding written instruction and though she received the notice, she didn't completely grasp its meaning. The Claimant has provided good cause for her nonparticipation. For this reason, the matter will be remanded for another hearing before an administrative law judge.

09610

DECISION:

The decision of the administrative law judge dated October 4, 2018 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.

We also note the Claimant indicated she has a hearing disability. Should the Claimant need assistance, i.e., TDD, she should contact the agency for additional support once she receives the Notice of Hearing.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv