

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEEGAN G PIERCE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**APPEAL 21A-UI-22412-JC-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/26/21
Claimant: Appellant (6)**

Iowa Code § 96.4(3) – Ability to and Availability for Work/Work Search Warning
Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

Claimant/appellant filed an appeal from the November 5, 2021 (reference 03) unemployment insurance decision that issued a work search warning for the week ending October 2, 2021. Notice of hearing was mailed to the appellant's last known address of record for a telephone hearing scheduled for December 2, 2021 at 11:05 a.m. A review of the Appeals Bureau's conference call system indicates that the appellant failed to call the toll-free number listed on the hearing notice at the time of the hearing. No hearing was held.

ISSUE:

Whether the appeal should be dismissed based on the appellant's failure to appear and participate.

FINDINGS OF FACT:

The appellant was properly notified of the scheduled hearing for this appeal. The appellant failed to call the toll-free number listed on the hearing notice at the time of the hearing. The appellant did not participate or request a postponement of the hearing as required by the hearing notice. Official notice of the Clear2there hearing control screen is taken to establish that appellant did not call at the time of the hearing.

The hearing notice instruction specifically advised the appellant of the date and time of hearing. It also states:

IMPORTANT NOTICE!

YOU MUST CALL the toll-free number: **866-783-7021** at the time of the hearing. When instructed, enter the PIN Number . . . followed by the pound key [#] and wait for the administrative law judge to begin the hearing.

The administrative law judge **WILL NOT** call you for the hearing, you **MUST** call into the number provided above to participate. **Failure to participate in the hearing may result in the dismissal of your appeal.**

The back page of the hearing notice provided further hearing instructions stating, "You must call the toll-free number on the front of this notice at the time of the hearing to participate."

The representative's decision concluded that claimant failed to make an active work search for the week ending October 2, 2021.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party.

Iowa Admin. Code r. 871-26.14(7) provides, in pertinent part:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3).

In this case, the appellant did not call the toll-free number listed on the hearing notice at the time of the hearing. The appellant is in default. The appeal should be dismissed.

If the appellant disagrees with this decision, the appellant may appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

DECISION:

The October 5, 2021 (reference 03) unemployment insurance decision issuing a work search warning remains in effect. The claimant/appellant has defaulted on the appeal and it is dismissed.

Jennifer L. Beckman

Jennifer L. Beckman
Administrative Law Judge
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December 28th, 2021
Decision Dated and Mailed

jlb/rs