

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
Website: eab.iowa.gov**

SAM J STOTT

Claimant

: **APPEAL NUMBER:** 23B-UI-03265

: **ALJ HEARING NUMBER:** 23A-UI-03265

:

and

:

**EMPLOYMENT APPEAL BOARD
DECISION**

:

IOWAWORKS CENTER - WATERLOO

:

:

Employer

:

SECTION: 10A.601 Employment Appeal Board Review

DECISION

STATEMENT OF THE CASE:

The issue of timeliness was raised when the Claimant filed an appeal bearing no postmark date, but was date-stamped May 4, 2023, one day beyond the statutory deadline of May 3, 2023. However, the appeal was mailed from Waterloo, Iowa, which is generally two to three mailing days away from Des Moines. For this reason, we find good cause to believe the appeal was mailed prior to the deadline, and the Board shall consider it timely.

FINDINGS OF FACT:

The notice of hearing in this matter was mailed April 18, 2023. The notice set a hearing for May 3, 2023. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because he had an unexpected emergency situation involving his mother and was unable to timely call in to participate for the first hearing. The Claimant made multiple attempts to get through to the administration law judge for the subsequent hearings, but was eventually told the matter was closed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2019) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an 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 did not participate due to an unforeseen medical emergency, which precluded his ability to gain access when he was able to call in to participate. For this reason, the matter will be remanded for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated May 4, 2023 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 who shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Please note the way you appear at the hearing has changed. When you receive the Notice of Hearing, please read and follow the instructions carefully.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

AMG/fnv