

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM S O'HARA**  
Claimant

**APPEAL NO. 10A-UI-13504-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HARVEYS BR MANAGEMENT CO INC**  
Employer

**OC: 08/01/10**  
**Claimant: Appellant (6)**

871 IAC 26.9(8) – Dismissal of Appeal

**STATEMENT OF THE CASE:**

The claimant, William O'Hara, filed an appeal from a decision dated September 23, 2010, reference 01. The decision disqualified him from receiving unemployment benefits.

**ISSUE:**

The issue is whether the claimant's appeal should be dismissed.

**FINDINGS OF FACT:**

William O'Hara filed a claim for unemployment benefits with an effective date of August 1, 2010. He was disqualified from receiving benefits in a decision dated September 23, 2010. He filed an appeal September 29, 2010, and a hearing was scheduled for November 15, 2010, at 11:00 a.m.

The claimant provided a telephone number for the hearing and that number was contacted by the administrative law judge. The person answering the phone, Gene Reed, stated he was a friend of the claimant's and that Mr. O'Hara was in the hospital. The claimant did provide documentation of his hospitalization by a letter from Social Worker Mary DeHaan which stated he had been hospitalized November 12, 2010, and was currently hospitalized as of the date of the letter, November 17, 2010.

On December 10, 2010, a letter was sent to the claimant requesting him to contact the Appeals Bureau no later than the end of business on December 20, 2010, to provide an update on his condition. The letter notified him the appeal would be dismissed if he did not respond by that time.

By the end of business on December 22, 2010, Mr. O'Hara did not contact the Appeals Section, either verbally or in writing, to provide an update on his status.

**REASONING AND CONCLUSIONS OF LAW:**

A provision of the Iowa Administrative Code, 871 IAC 26.9(8), allows an administrative law judge to dismiss an appeal if the party fails, without good cause, to respond to a discovery request. The evidence in this record establishes that the claimant has failed to respond to the request of the administrative law judge to update his status regarding his ability and willingness to proceed with the appeal he filed. Under these circumstances, the administrative law judge concludes that it is appropriate to dismiss the employer's appeal.

**DECISION:**

The representative's decision of September 23, 2010, reference 01, is dismissed. William O'Hara is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css