

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ZACH W SWARTS**  
Claimant

**GETZ INDUSTRIAL CLEANING INC**  
Employer

**APPEAL 21A-UI-24357-S2-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 09/12/21**  
**Claimant: Appellant (6)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

Claimant Zach W. Swarts filed an appeal from the October 22, 2021 (reference 01) unemployment insurance decision that denied benefits. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for December 29, 2021, at 3:00 p.m. Claimant called in for the hearing but during the opening statement the claimant's telephone disconnected. The administrative law judge tried to call claimant, but his phone went to voicemail and his mailbox was full. Claimant did not call in again to participate and 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 parties were properly notified of the scheduled hearing for this appeal. The appellant initially called in to participate in the hearing, but he either hung up or was disconnected. The administrative law judge attempted to call claimant back, but he did not answer, and the administrative law judge was unable to leave a message. Claimant failed to call back in to participate. Official notice of the Clear2there hearing control screen is taken to establish that appellant did not answer when called by the administrative law judge and did not call back in before the record was closed, 15 minutes after the hearing was scheduled to begin.

The hearing notice instruction specifically advises parties 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 provides 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." This information also appears on the hearing notice in Spanish.

An insert was sent along with the hearing notice stating:

**ATTENTION!**

**Instructions for participating in a hearing have changed.**

Please review the enclosed hearing notice carefully and follow the instructions on how to join the call on the scheduled day and time of the hearing.

As a courtesy to the appellant the record was left open for a minimum of 15 minutes after the hearing start time to give the appellant a reasonable opportunity to participate. Holding the appellant in default for failure to appear and participate during a 15-minute window after the hearing start time is reasonable considering the time allocated for unemployment hearings.

The representative's decision concluded that claimant was not eligible for benefits.

**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:

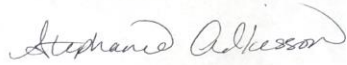
(7) If a party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the presiding 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). The record may be reopened if the absent party makes a request to reopen the hearing in writing under subrule 26.8(3) and shows good cause for reopening the hearing.

In this case, the appellant did not remain on the line to participate 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 22, 2021 (reference 01) unemployment insurance decision denying benefits remains in effect as the appellant is in default and the appeal is dismissed.



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Stephanie Adkisson  
Administrative Law Judge  
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1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

January 25 2022  
Decision Dated and Mailed

sa/jh