IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

CHANEL J REDDIX Claimant **IOWA WORKFORCE DEVELOPMENT DEPARTMENT**	**APPEAL 17A-UI-10366-CL-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 07/16/17** **Claimant: Appellant (6)**

Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default
Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.2(1)e – Notice to Report
Iowa Admin. Code r. 871-24.23(11) – Failure to Report

STATEMENT OF THE CASE:

Claimant/appellant filed an appeal from the August 25, 2017, (reference 09) unemployment insurance decision that denied benefits based on claimant's failure to report to the department as directed. Notice of hearing was mailed to the appellant's last known address of record for a telephone hearing scheduled for October 26, 2017, at 1:10 p.m. A review of the Appeals Bureau's conference call system indicates that the appellant failed to respond to the hearing notice and provide a telephone number at which the appellant could be reached for the scheduled hearing and no hearing was held.

ISSUE:

Should the appeal 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 was not available at the telephone number provided for the scheduled hearing and 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 or register online with the Appeals Bureau to provide a telephone number and/or name of a representative.

The hearing notice instruction specifically advises parties of the date and time of the hearing. It also states:

> **You must register for the hearing immediately!**
> You must register your phone number and the name(s) and phone number(s) of any witness(es) with the Appeals Bureau. If you do not register, the judge will not be able to call you or your witness(es) for the hearing.

The back page of the hearing notice provides further instruction and warning:

> If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence or witness(es).

The information quoted above also appears on the hearing notice in Spanish.

As a courtesy to the appellant the record was left open for a minimum grace period 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.

The unemployment insurance decision denied benefits based on claimant's failure to report to the department as directed.

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. The statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

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 provide 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.
>
> a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.
>
> b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party.
>
> c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

If the appellant disagrees with this decision, a written request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the other good cause reason that prevented the appellant from participating in the hearing at the scheduled time. The appellant also has the option to appeal

the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

DECISION:

The August 25, 2017, (reference 09) unemployment insurance decision denying benefits remains in effect as the appellant is in default.

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Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

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Decision Dated and Mailed

cal/scn