

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEA L WINKOWITSCH
Claimant

APPEAL NO. 14A-UI-03442-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 03/02/14
Claimant: Appellant (6)

Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated March 19, 2014, reference 02, that concluded the claimant voluntarily quit employment without good cause attributable to the employer. A notice of hearing was mailed to the parties' last-known addresses of record for a telephone hearing to be held at 1 p.m. on April 22, 2014. The claimant was not available at the number she had provided and did not participate in the hearing. Alyce Smolsky participated on behalf of the employer

ISSUE:

Should the appeal be dismissed because the claimant did not participate in the hearing?

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. A review of the Appeals Bureau's conference call system shows the claimant was not available at the telephone number provided for the hearing and did not participate in the hearing. The claimant did not participate in the hearing or request a postponement of the hearing as required by the hearing notice prior to the hearing. At 2:30 p.m., the claimant called the Appeals Bureau after receiving messages left for her by the administrative law judge. She explained that she had just started a job on April 21. She did not call in to request a postponement of the hearing prior to the time of the hearing.

REASONING AND CONCLUSIONS OF LAW:

The Iowa Administrative Procedures 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.

The Agency rules at Iowa Admin. Code r. 871-26.14(7) provide that if the appealing 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 judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rules further state that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. Iowa Admin. Code r. 871-26.14(7)c.

The claimant appealed the unemployment insurance decision but failed to participate in the hearing. The claimant has therefore defaulted on her appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the decision remains in force and effect. Good cause to reopen the hearing has not been shown.

DECISION:

The unemployment insurance decision dated March 19, 2014, reference 02, is affirmed. The decision denying benefits remains in effect.

Steven A. Wise
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-242-5144

Decision Dated and Mailed

saw/css