

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**CHARLES R FEUERHAMMER**

Claimant

and

**WALMART INC**

Employer

**HEARING NUMBER: 19BUI-05686**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**SECTION:** 10A.601 Employment Appeal Board Review

**D E C I S I O N**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed September 9, 2019. The notice set a hearing for October 1, 2019. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because when he attempted to register online, he received a notification that his case was cancelled. He contacted the agency and was told it was being rescheduled. He didn't receive notice of the new hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2015) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a 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 relied on the online notification which told him his case was cancelled. When the hearing was rescheduled, he didn't receive the new notice. For this reason, the matter will be remanded for another hearing before an administrative law judge.

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**DECISION:**

The decision of the administrative law judge dated October 1, 2019 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 in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

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Ashley R. Koopmans

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James M. Strohman

**DISSENTING OPINION OF KIM D. SCHMETT:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would affirm decision of the administrative law judge.

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Kim D. Schmett

AMG/fnv