

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

MARC E CONWAY

Claimant

and

**ALUMINUM CO OF AMER-DAVENPORT
WKS**

Employer

HEARING NUMBER: 20BUI-00300

**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 January 14, 2020. The notice set a hearing for January 29, 2020. The Employer did not appear for or participate in the hearing. The reason the Employer did not appear is because the Employer's representative requested a postponement for the reason that the Employer's witness could not be available due to being scheduled for an arbitration proceeding on the same day. The Employer's witness could not be available. The postponement request was denied.

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 Employer did not participate in the hearing through no fault of the Employer. The Employer did not participate because its witness could not be available on the original hearing date because of his participation in an arbitration proceeding that conflicted with that date. The Employer submitted a postponement request in good faith prior to the hearing, but was denied. The Employer has established good cause for his nonparticipation. For this reason, the matter will be remanded for another hearing before an administrative law judge.

00300

DECISION:

The decision of the administrative law judge dated February 4, 2020 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau. 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.

Ashley R. Koopmans

James M. Strohman

Kim D. Schmett

AMG/fnv