

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JACOB EAKES

Claimant

CONCRETE CENTRAL LLC

Employer

APPEAL NO. 14A-UI-03403-E

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/23/14

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:

The claimant/appellant filed a timely appeal from a representative's decision dated March 21, 2014, reference 02, that denied benefits. Notices of hearing were mailed to the parties' last-known addresses of record for a hearing to be held in Cedar Rapids, Iowa, on May 15, 2014, before Administrative Law Judge Julie Elder. The claimant/appellant did not appear for the hearing at the date and time of the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. The employer's witness was present. The administrative law judge advised the employer's witness that it is customary to allow a party a 10-minute grace period before determining the appealing party defaulted. As the administrative law judge entered the lobby of the Workforce Center she was met by an employee and told the claimant had called and would be 10 -15 minutes late. The administrative law judge advised the employer she was going to give the claimant 15 additional minutes to arrive and participate in the hearing but after waiting, the claimant still did not show up and has not shown up as of the writing of this decision at 3:06 p.m., more than one hour after the scheduled start time of the hearing. Based on the claimant/appellant's failure to participate in the hearing and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

The issue is whether the underlying decision should be affirmed and the appeal should be effectively dismissed based upon the claimant/appellant's failure to participate in the hearing.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The claimant/appellant did not appear for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The representative's decision concluded that the claimant/appellant was not eligible for unemployment insurance 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. 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.

Agency rule Iowa Admin. Code r. 871-26.14(7) provides that if the appealing party has not responded to a notice of hearing by the scheduled starting time of the hearing, 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 rule further states 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/appellant appealed the unemployment insurance decision but failed to participate in the scheduled appeal hearing. The claimant/appellant has therefore defaulted on his appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the representative's decision remains in force and effect.

If the claimant/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 emergency or other good cause that prevented the claimant/appellant from participating in the hearing at the scheduled time. The claimant/appellant also has the option to appeal the decision directly to the Employment Appeal Board, whose address is listed at the beginning of the decision.

DECISION:

The representative's unemployment insurance decision dated March 21, 2014, reference 02, is affirmed. The decision denying benefits to the claimant/appellant remains in effect.

Julie Elder
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

je/pjs