

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GARY L GRAHAM**  
Claimant

**APPEAL NO: 16A-UI-06947-JT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEACON OF HOPE MINISTRIES INC**  
Employer

**OC: 05/29/16**  
**Claimant: Respondent (6)**

Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(6) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

The employer filed an appeal from the June 17, 2016, reference 01, decision that allowed benefits to the claimant provided he was otherwise eligible and that held the employer's account could be assessed for benefits, based on an agency conclusion that the claimant voluntarily quit on April 6, 2016 for good cause attributable to the employer due to detrimental working conditions. A notice of hearing was mailed to the parties' last-known addresses of record for an in-person hearing to be held at 10:00 a.m. on October 24, 2016 at the Fort Dodge Workforce Development Center. The employer failed to appear for the hearing and did not participate in the hearing. Claimant Gary Graham appeared with legal counsel, Charles Hill. Based upon the employer/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:**

Should the appeal be dismissed based upon the employer/appellant not participating in the hearing?

**FINDINGS OF FACT:**

The employer is the appellant in this matter. The parties were properly notified of the date, time and location of the scheduled in-person appeal hearing. The employer/appellant failed to appear for the hearing the employer had requested. Claimant Gary Graham appeared with legal counsel, Charles Hill. Mr. Hill traveled from Des Moines to Fort Dodge to participate in the hearing. The administrative law judge traveled from Ames to Fort Dodge to participate in the hearing. The employer and the claimant's residence are both located in Fort Dodge. The employer/appellant did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The June 17, 2016, reference 01, decision allowed benefits to the claimant provided he was otherwise eligible and held the employer's account could be assessed for benefits, based on an agency conclusion that the claimant voluntarily quit on April 6, 2016 for good cause attributable to the employer due to detrimental working conditions.

## **REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedures Act at Iowa Code § 17A.12(3) provides in pertinent part:

If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and make a decision in the absence of the party. ... If a decision is rendered against a party who failed to appear for the hearing and the presiding officer is timely requested by that party to vacate the decision for good cause, the time for initiating a further appeal is stayed pending a determination by the presiding officer to grant or deny the request. If adequate reasons are provided showing good cause for the party's failure to appear, the presiding officer shall vacate the decision and, after proper service of notice, conduct another evidentiary hearing. If adequate reasons are not provided showing good cause for the party's failure to appear, the presiding officer shall deny the motion to vacate.

The Agency rules at Iowa Admin. Code r. 871-26.14(6) provide:

26.14(6) In the event that one or more parties which have received notice for a contested case hearing fail to appear at the time and place of an in-person hearing, the presiding officer may proceed with the hearing. If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal. The hearing may be reopened if the absent party makes a request to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party arrives for an in-person hearing while the hearing is in session, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party arrives for an in-person hearing after the record has been closed and after any party which had participated in the hearing has departed, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire ex parte as to the reason the party was late. For good cause shown, the presiding officer shall cause notice of hearing to be issued to all parties of record and reopen the record. The record shall not be reopened if the presiding officer does not find a good cause for the party's late arrival.

The employer/appellant appealed the representative's decision but failed to participate in the hearing. The employer/appellant has therefore defaulted on its appeal pursuant to Iowa Code §17A.12(3) and Iowa Admin. Code r. 871-24.14(6), and the representative's decision remains in force and effect.

If the employer/appellant disagrees with this decision, pursuant to the rule, the employer/appellant must make a written request to the administrative law judge that the hearing be reopened 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 employer/appellant from participating in the hearing at its scheduled time and place.

## **DECISION:**

The June 17, 2016, reference 01, decision is affirmed. The decision that allowed benefits to the claimant provided he was otherwise eligible and that held the employer's account could be

assessed for benefits, based on an agency conclusion that the claimant voluntarily quit on April 6, 2016 for good cause attributable to the employer due to detrimental working conditions, remains in effect.

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James E. Timberland  
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Decision Dated and Mailed

jet/rvs