

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ALEX MBARATO**  
Claimant

**APPEAL NO: 15A-UI-08904-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 07/05/15  
Claimant: Appellant (6)**

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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 July 21, 2015 (reference 01), that denied backdating his claim for benefits. Notice of hearing was mailed to the party's last-known address of record for a telephone hearing to be held at 10:30 a.m. on August 28, 2015. A review of the Appeals Bureau's conference call system shows the claimant/appellant was not available at the telephone number provided for the hearing and did not participate in the hearing. The claimant's wife called after the record had been closed and indicated the claimant did not have a telephone where he could be reached.

**ISSUE:**

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

**FINDINGS OF FACT:**

The party was properly notified of the scheduled hearing on this appeal. The claimant/appellant was not available at the telephone number provided 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 backdating his claim 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 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 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 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 decision remains in force and effect.

If the claimant/appellant disagrees with this decision, a request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The 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.

**DECISION:**

The unemployment insurance decision dated July 21, 2015 (reference 01), is affirmed. The decision denying backdating the claim for benefits remains in effect.

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Teresa K. Hillary  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
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Decision Dated and Mailed

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