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

JOSE COREAS Claimant,	HEARING NUMBER: 12B-UI-08501
and	EMPLOYMENT APPEAL BOARD DECISION
WEST LIBERTY FOODS LLC	

Employer.

SECTION: 10A.601 Employment Appeal Board Review

# DECISION

### **FINDINGS OF FACT:**

The notice of hearing in this matter was, originally, mailed July 23, 2012. The notice set a hearing for August 8, 2012. The hearing was continued for August 30, 2012 for which a  $2^{nd}$  Notice of Hearing was mailed August 9, 2012. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Claimant did not receive the  $2^{nd}$  notice of the hearing and did not know the  $2^{nd}$  hearing was taking place.

# **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2011) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an 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 awaited a  $2^{nd}$  Notice of Hearing that never came. The Claimant has established good cause for his nonparticipation during the continued hearing. For this reason, we shall remand this matter to the administrative law judge so as to allow the Claimant to avail himself of his due process right.

### **DECISION:**

The decision of the administrative law judge dated August 31, 2012 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.

John A. Peno

Monique F. Kuester

Cloyd (Robby) Robinson

RRA/fnv