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

NATASHA A KLAREN Claimant,	:	HEARING NUMBER: 14B-UI-07811
	:	
and	-	EMPLOYMENT APPEAL BOARD DECISION
MONONA WIRE CORP	:	

Employer.

SECTION: 10A.601 Employment Appeal Board Review

# DECISION

## **FINDINGS OF FACT:**

The notice of hearing in this matter was mailed August 4, 2014. The notice set a hearing for August 20, 2014. The Claimant immediately contacted the Iowa Workforce Development Center, Appeals Section, to inform the agency that she wouldn't be able to attend because she recently started new employment. The staff member indicated that that was an 'acceptable reason' not to participate, and went on to instruct her on"...how to fax a paper for the judge to use in [her] absence..." On the day of the hearing, the administrative law judge contacted the Claimant and left a voicemail since she didn't answer. The reason the Claimant did not appear is because she faxed a statement in lieu of her testimony as advised.

When the Claimant retrieved her voicemail, she contacted the administrative law judge on her break to verify that he received her statement. He explained that he did not consider her statement and that she was misinformed.

#### **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 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 Claimant did not participate in the hearing through no fault of the Claimant. The Claimant believed in good faith the agency instruction she received to submit a statement in lieu of testimony since she could not be available for the hearing. She acted on that belief by faxing in her statement, which was not considered. Based on this circumstance, we find the Claimant provided good cause for her nonparticipation, as it was due to agency error. For this reason, we shall remand this matter for another hearing before an administrative law judge.

#### **DECISION:**

The decision of the administrative law judge dated August 21, 2014 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.

Kim D. Schmett

AMG/fnv

Ashley R. Koopmans