

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

MATHEW A SMITH

Claimant,

and

FLAGGER PROS USA LLC

Employer.

HEARING NUMBER: 15B-UI-12781

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed January 8, 2015. The notice set a hearing for January 8, 2015. The Employer did not appear for or participate in the hearing. The reason the Employer did not appear is because the Employer did not provide a telephone number at which the Employer could be reached. Thus, the Employer did not receive the call. When the Employer realized no call was forthcoming, the Employer contacted the administrative law judge approximately 24 minutes after the scheduled start of the hearing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2015) 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 Employer did not participate in the hearing because the Employer had not provided a telephone number for the administrative law judge to call. When the Employer did not receive a call, the Employer contacted the administrative law judge within a reasonable timeframe after the scheduled hearing time, which established the Employer's intention to follow through with the appeals process. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Employer may participate in the hearing.

We caution the Employer that, barring exceptional circumstances, we will not again excuse a failure to call in or register on-line a number where the Employer could be reached.

DECISION:

The decision of the administrative law judge dated January 9, 2015 is not vacated. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. 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

Ashley R. Koopmans

James M. Strohman

RRA/fnv