

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

MARTHA G BLAIRSUE

Claimant

and

L A LEASING INC

Employer

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HEARING NUMBER: 16B-UI-13316

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

A first notice of hearing in this matter was mailed December 8, 2015. The notice set a hearing for December 21, 2015. The Claimant Martha Blairsue (not “Bairsue”) called in a number for that hearing at the appropriate time and did appear for the hearing. Unfortunately the interpreter was unable to adequately interpret and the hearing had to be continued without taking testimony. On December 21, 2015 a notice of postponement was sent to the parties. A second notice of hearing was sent on June 13, 2016 setting the hearing for June 24, 2016. The Claimant did not call in her number a second time. The number she called in for the December hearing was still on the Clear2there screen.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2016) provides:

5. 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 because she failed to call in her number a second time. She had shown up at the first hearing, by telephone, ready and willing to participate. Her number was still available to Workforce but she was not called at that number for the second hearing. Under the circumstances of this case we conclude that the Claimant has demonstrated she took reasonable steps to prosecute her appeal. For this reason, the matter will be remanded for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated June 27, 2016 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Bureau. The administrative law judge shall conduct a new hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights. This decision of the administrative law judge shall be based upon that evidence, including testimony and exhibits, which is admitted in the new hearing, and may not be based on evidence adduced during the first hearing unless that evidence from the first hearing is made part of the record during the second hearing.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

RRA/fnv