

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GENO L HOOVER
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 18R-UI-05087-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/21/18
Claimant: Respondent (2)

Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the February 21, 2018, (reference 02) unemployment insurance decision that allowed benefits based upon a separation from employment. A telephone hearing was held on March 28, 2018, and a decision was issued in employer's favor. Claimant appealed that decision. After the Employment Appeal Board (EAB) remanded the case, due notice was issued, a hearing was scheduled to be held on May 18, 2018. The claimant did not respond to the hearing notice. Because the EAB did not vacate the original appeal decision 18A-UI-02859-JE-T, that hearing record, including any exhibits, is adopted and incorporated herein.

ISSUE:

Should the original appeal decision be adopted?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision in appeal number 18A-UI-02859-JE-T found claimant voluntarily left his employment without good cause attributable to employer and that claimant was disqualified from receiving benefits until he worked and earned wages equal to ten times his weekly benefit amount, provided he is otherwise eligible. The decision also found claimant overpaid benefits in the amount of \$2,466.00 and claimant was required to repay those benefits. Claimant did not register for the remanded hearing or request a postponement, as instructed in the hearing notice. Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's findings of fact in appeal 18A-UI-02859-JE-T is hereby adopted and incorporated herein as the findings of fact for appeal 18R-UI-05087-CL-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the administrative law judge's reasoning and conclusions of law in appeal 18A-UI-02859-JE-T is hereby adopted and incorporated herein as the reasoning and conclusions of law for appeal 18R-UI-05087-CL-T.

Iowa Admin. Code r. 871-26.14(7) provides:

(7) If a 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 presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provide in Iowa Code section 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing in writing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

The EAB remanded this case to allow claimant an opportunity to participate in the appeal hearing. Claimant did not provide the appeals bureau with a telephone number to participate in the hearing or request a postponement, as instructed on the hearing notice. As the original decision was not vacated by the Employment Appeal Board, it is hereby adopted and incorporated herein.

DECISION:

Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's decision in appeal 18A-UI-02859-JE-T is hereby adopted and incorporated herein as the decision for appeal 18R-UI-05087-CL-T. The February 21, 2018, (reference 02) decision remains reversed. Claimant left employment without good cause attributable to employer. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible. Claimant has been overpaid benefits in the amount of \$2,466.00 and is required to repay those benefits.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn