

in relevant part, that “... a party’s failure to participate in a contested case hearing *shall not* result in a decision

automatically being entered against it.” Had evidence been taken and a decision issued based thereon, the Board would be able to proceed with the appeal. That not being the case, the Board must remand this matter for a new hearing.

DECISION:

The decision of the administrative law judge dated August 19, 2009 is not vacated. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section, for further development of the record consistent with this decision, unless otherwise already addressed. The administrative law judge shall conduct a hearing following due notice, if necessary. If a hearing is held, then the administrative law judge shall issue a decision which provides the parties appeal rights.

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AMG/fnv