

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**BRIAN J BOOCK**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL NO: 16A-UI-02571-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/05/15  
Claimant: Appellant (6)**

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Iowa Code Ch. 17A – Iowa Administrative Procedure Act  
Iowa Code Ch. 96 – Iowa Employment Security Act  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default  
Iowa Admin. Code r. 871-24.19(3) – Claims Bureau Subsequent Action

**STATEMENT OF THE CASE:**

An appeal was filed from an unemployment insurance decision dated February 19, 2016 (reference 07) that denied benefits due to the claimant not being able to and available for work, beginning February 14, 2016. In a subsequent decision (reference 08), the claimant was found to be able to and available for work; beginning February 28, 2016. However, no subsequent decision has resolved whether the claimant is able to and available for work from February 14 until February 28, 2016.

Notice of the hearing was mailed to the claimant's last-known address of record for a telephone hearing to be held at 1:00 p.m. on March 24, 2016. A review of the Appeals Bureau's conference call system after 1:15 p.m. the same day shows the claimant/appellant failed to respond to the hearing notice instruction and provide a telephone number at which he could be reached for the scheduled hearing, and no hearing was held.

**ISSUE:**

Should the appeal be dismissed based upon the appellant not being available to participate in the scheduled hearing?

**FINDINGS OF FACT:**

The party was properly notified of the scheduled hearing on this appeal. The appellant, Brian J. Boock, failed to respond to the hearing notice instruction and provide a telephone number at which he could be reached, nor did he request a postponement of the hearing as required by the hearing notice.

The agency's decision concluded that the claimant was ineligible for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party. The statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

Agency rule Iowa Admin. Code r. 871-26.14(7) provides that if the appealing 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 judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rule further states that *failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record*. Iowa Admin. Code r. 871-26.14(7)c. (Emphasis added.)

The appellant, Brian J. Boock, appealed the unemployment insurance decision but failed to be available to participate in the scheduled hearing. The appellant has, therefore, defaulted on his appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the decision remains in full force and effect. Because of the reference 08 decision, the claimant has established he is able to and available for work; effective February 28, 2016. Therefore, for appeal purposes, the only unresolved period in question is whether the claimant is able to and available for work beginning February 14 until February 28, 2016.

If the appellant disagrees with this decision, a request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at the scheduled time.

**DECISION:**

The appellant is in default and the appeal is dismissed. The unemployment insurance decision dated February 19, 2016 (reference 07) denying benefits remains in effect.

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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
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Decision Dated and Mailed

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