

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**TRAVIS DAHLHAUSER**  
Claimant

**APPEAL NO. 06A-UI-09698-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A & J ENTERPRISES INC**  
Employer

**OC: 08-27-06 R: 03  
Claimant: Appellant (1)**

871 IAC 26.14(17)a-c – Decision on the Record

**STATEMENT OF THE CASE:**

The claimant/appellant filed a timely appeal from the September 22, 2006, reference 01, decision that denied benefits to the claimant. After due notice was issued, a hearing was scheduled by telephone conference call before Administrative Law Judge Julie Elder on December 13, 2006. The appellant did not respond to the hearing notice and did not participate in the hearing. Based on the appellant's failure to participate in the hearing, the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

**ISSUE:**

The issue is whether the representative's decision should be affirmed.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant received the notice of hearing, dated November 28, 2006, prior to the December 13, 2006, hearing. He testified he called the Appeals Bureau November 29, 2006, and responded to the hearing notice instructions but did not have a control number. The phone clerks examined their logs and reported to the administrative law judge that they had no record of the claimant calling in response to the hearing notice mailed November 28, 2006, for the December 13, 2006, hearing date and the administrative law judge held the record open until 4:30 p.m. to give the claimant an opportunity to find his control number. The claimant did not call by 4:30 p.m... Consequently, the first time the claimant directly contacted the Appeals Section was December 13, 2006, at 1:15 p.m., after the scheduled start time of the hearing and after the hearing record had been closed at 1:10 p.m.

The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment insurance decision should be affirmed.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with 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. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

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

At issue is a request to reopen the record made after the hearing had concluded. The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

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**DECISION:**

The unemployment insurance decision dated September 22, 2006, reference 01, is affirmed. The representative's decision denying benefits to the claimant remains in effect.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/css