

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL H CLINTON**  
Claimant

**APPEAL NO. 07A-UI-04124-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MCGOUGH CONSTRUCTION INC**  
Employer

**OC: 05/28/06 R: 04**  
**Claimant: Appellant (1)**

871 IAC 26.8(5) - Decision on the Record

**STATEMENT OF THE CASE:**

Michael H. Clinton (claimant) appealed a representative's April 18, 2007 decision (reference 02) that concluded he was eligible to receive unemployment insurance benefits even though he voluntarily quit a part-time job with McGough Construction, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled on May 8, 2007. Neither party responded to the hearing notice. The employer contacted the Appeals Section for the first time about an hour after the scheduled the hearing. The claimant contacted the Appeals Section the next day, May 9, 2007. The claimant made a request to reopen the hearing. Based on the administrative record, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Should the claimant's request to reopen the hearing be granted?

**FINDINGS OF FACT:**

The claimant received the hearing notice prior to the hearing. The claimant did not read or follow the instructions on the hearing notice. On the day of the scheduled hearing, the claimant was working and was not available for the hearing. The claimant did not contact the Appeals Section after he learned he would be working at the time of the scheduled hearing on May 8.

**REASONING AND CONCLUSIONS OF LAW:**

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The claimant's request to reopen the hearing is denied. His failure to read and follow the hearing instructions, in addition to failing to request a continuance when he knew or had reason to believe he would not be available at the time of the hearing does not establish good cause to reopen the hearing.

Since the representative's April 19, 2007 decision holds the claimant eligible to receive benefits, and does not charge the employer's account, it is not known why the claimant appealed a decision that is not adverse to him. Based on the information in the administrative record, the decision is affirmed.

**DECISION:**

The claimant's request to reopen the hearing is denied. The representative's April 18, 2007 decision (reference 02) is affirmed. The claimant remains qualified to receive benefits as of March 25, 2007, provided he meets all other eligibility requirements. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw