

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**SAM FISHER**

Claimant

**APPEAL NO. 14A-UI-05896-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**REMEDY INTELLIGENT STAFFING INC**

Employer

**OC: 05/11/14**

**Claimant: Respondent (6)**

Iowa Code § 17A.12(3) - Default Decision  
871 IAC 26.14(7) - Dismissal of Appeal on Default  
871 IAC 26.14(7)b - Late Call  
Iowa Code § 17A.12-3 - Non-Appearance of Party

**STATEMENT OF THE CASE:**

An appeal was filed from a representative's unemployment insurance decision dated June 3, 2014, (reference 01), that concluded Sam Fisher (claimant/respondent) was eligible for unemployment insurance benefits after a separation from employment from Remedy Intelligent Staffing, Inc. (employer/appellant). Notices of hearing were mailed to the parties' last-known addresses of record for a telephone hearing to be held at 2:00 p.m. on July 1, 2014. A review of the Appeals Bureau's conference call system indicates that the employer/appellant failed to respond to the hearing notice prior to the hearing to provide a telephone number at which a representative could be reached for the hearing so no hearing was held.

**ISSUE:**

The issue is whether the underlying decision should be affirmed and the appeal should be effectively dismissed based upon the employer/appellant's failure to participate in the hearing.

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. The employer/appellant received the hearing notice prior to the hearing scheduled on July 1, 2014. The instructions inform the parties that if the party does not contact the Appeals Bureau and provide the phone number at which the party can be contacted for the hearing, the party will not be called for the hearing. This information can be found on both the front and the back of the hearing notice. The employer/appellant failed to contact the Appeals Bureau to provide a telephone number at which a representative could be reached for the hearing so no hearing was held. The first time the employer/appellant directly contacted the Appeals Bureau was on July 1, 2014, 38 minutes after the scheduled start time for the hearing.

The representative's decision concluded that the claimant/respondent was eligible 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 871 IAC 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). This rule does not provide exceptions for good intentions and/or a party contacting the Appeals Bureau within a reasonable amount of time after the hearing is scheduled. It can be assumed an appellant intends to participate in the hearing simply by the fact an appeal is filed, but their responsibility does not end there and all parties are required to follow the specific written instructions printed on the hearing notice. Due process requires notice and an opportunity to be heard, both of which were provided to the parties.

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. 871 IAC 26.14(7)c. In the case herein, the employer/appellant has failed to establish the necessary good cause required to reopen the hearing record. Consequently, the employer/appellant has therefore defaulted on its appeal pursuant to Iowa Code § 17A.12(3) and 871 IAC 26.14(7), and the representative's decision remains in force and effect.

## **DECISION:**

The representative's unemployment insurance decision dated June 3, 2014, (reference 01), is affirmed. The decision granting benefits remains in effect.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs