

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
Website: eab.iowa.gov**

RENEE A JAYNE

Claimant

: **APPEAL NUMBER:** 23B-UI-05327

: **ALJ HEARING NUMBER:** 23A-UI-05327

:

and

:

**EMPLOYMENT APPEAL BOARD
DECISION**

:

DOLGENCORP LLC

:

:

Employer

:

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed May 30, 2023. The notice set a hearing for June 12, 2023 at 8:00 a.m. The Employer called in for the hearing but no one answered the phone. The recording for the appeal reflects that at 8:18 a.m., when the administrative law judge called the conference line, the Employer was not on the line. The administrative law judge’s decision determined that the Employer had not called in and had “defaulted pursuant to Iowa Code section 17A.12(3)...” and the previous decision remained in effect.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2015) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

Here the Employer did not participate in the hearing through no fault of their own. There is nothing in the record contradicting the Employer’s contention that they called the correct number at the correct time; therefore, they did not participate through no fault of their own. If the recording had been from 8:00 a.m. to 8:15 a.m., there would be proof of whether the Employer called in at the correct time. Although the administrative law judge entered a default decision based on the Employer’s failure to appear at the hearing, the Board finds that the Employer provided good cause for nonparticipation. For this reason, the matter will be remanded for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated June 14, 2023, is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge who shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Please note the way you appear at the hearing has changed. When you receive the Notice of Hearing, please read and follow the instructions carefully.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

SRC/fnv