

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**ANGELA M MERRILL**

Claimant,

and

**STREAM INTERNATIONAL INC**

Employer.

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**HEARING NUMBER: 10B-UI-11258**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**SECTION:** 10A.601 Employment Appeal Board Review

**D E C I S I O N**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed September 15, 2010. The notice set a hearing for October 18, 2010. The employer followed the notice instructions by providing a number where he could be reached on the day of the hearing. On the day of the hearing, however, the employer did not appear for or participate in the hearing. The reason the employer did not appear is because the employer, initially, missed the call. When the employer called back within five minutes of the hearing, the employer was placed on hold, but was unable to be added to the call. The employer could not participate in the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2009) 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 the employer. The employer complied with the notice instructions, but was unable to retrieve the administrative law judge's call when it came. Although the employer immediately tried to gain access within a reasonable time after the start of the hearing, for some reason, the employer could not be added to the call. Having established good cause for the employer's nonparticipation, the Board shall remand this matter for another hearing before an administrative law judge.

**DECISION:**

The decision of the administrative law judge dated October 20, 2010 is not vacated. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

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John A. Peno

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Monique F. Kuester

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Elizabeth L. Seiser

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