

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

COREY W GROSSNICKLE
Claimant

VAN DIEST SUPPLY CO
Employer

APPEAL 17A-UI-02104-SC-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 01/29/17
Claimant: Appellant (6)

Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

On February 21, 2017, Corey W. Grossnickle (claimant) filed an appeal from the February 16, 2017, reference 01, unemployment insurance decision that concluded he was not eligible for unemployment insurance benefits after a separation from employment. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for March 20, 2017, at 11:00 a.m. On March 9, 2017, the employer provided proof that the claimant passed away on March 4, 2017. A review of the Appeals Bureau's conference call system indicates that no one registered on behalf of the claimant and no hearing was held.

ISSUE:

Should the appeal be dismissed?

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing for this appeal. The claimant made his continued weekly claims for unemployment insurance benefits beginning January 29, 2017 through the week ending February 25, 2017. He passed away before the appeal hearing that was scheduled regarding the decision that disqualified him from receiving benefits. Official notice of the Clear2there hearing control screen is taken to establish that no one on the claimant's behalf indicated a desire to proceed with the appeal by calling or registering online with the Appeals Bureau for the hearing.

As a courtesy, the record was left open for a minimum of 15 minutes after the hearing start time to give the representative a reasonable opportunity to participate. This reasonable amount of time is appropriate because if a hearing were conducted with the non-appealing party alone it would have likely concluded in 15 minutes or less. Allowing additional time would prejudice the non-appealing party for appearing in a timely manner.

The unemployment insurance decision stated that the claimant was not eligible for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

If benefits are due to a deceased claimant, they are payable to the person who has been issued letters or testamentary or of administration pursuant to an application filed within 30 days of the claimant's death. Iowa Admin. Code r 871-25.14(96). In the event no one applies for the letters, the benefits will be paid to the next of kin as outlined in the rule and pursuant to other procedural considerations. *Id.* As the claimant in this case was disqualified from receiving benefits, there are no benefits currently owed to the claimant. However, the claimant filed a timely appeal to the decision disqualifying him for benefits. If the denial decision were to be reversed following a hearing, there may be payments payable to the claimant.

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party or representative 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 or its representative 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 Iowa Admin. Code r. 871-26.14(7) provides that if the appealing party or a representative does not respond 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, the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3). The record may be reopened if the absent party or a representative for the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing.

If the claimant's representative disagrees with this decision, a written request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the emergency or other good cause that prevented the claimant's representative from participating in the hearing at the scheduled time. The claimant's representative also has the option to appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

DECISION:

The February 16, 2017, reference 01, unemployment insurance decision denying benefits remains in effect as the claimant was unable to participate and no one registered to participate in the hearing on his behalf. The claimant's appeal is dismissed.

Stephanie R. Callahan
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

src