# BEFORE THE EMPLOYMENT APPEAL BOARD

Lucas State Office Building Fourth floor Des Moines, Iowa 50319

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**TIMOTHY M ELLIOTT** 

**HEARING NUMBER:** 18BUI-09318

Claimant

.

and

EMPLOYMENT APPEAL BOARD DECISION

DONALDSON COMPANY INC

:

**Employer** 

SECTION: 10A.601 Employment Appeal Board Review

### DECISION

### FINDINGS OF FACT:

The notice of hearing in this matter was mailed September 12, 2018. The notice set a hearing for September 25, 2018. The Claimant did not appear for or participate in the hearing. On the day of the hearing the Claimant was in the hospital and neither able to participate nor call in a number to participate.

# **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2018) provides:

5. 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 Claimant did not participate in the hearing due to being admitted to the hospital. The Claimant did not call in a number for the same reason. The Claimant did not participate in the hearing through no fault of the Claimant. 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 September 25, 2018 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 in the Workforce Development Center, Appeals Bureau. 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. This decision of the administrative law judge shall be based upon that evidence, including testimony and exhibits, which is admitted in the new hearing.

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Ashley R. Koopmans	
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