

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHELE R JAMES
Claimant

APPEAL 21A-EUCU-00045-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/05/20
Claimant: Respondent (6)**

Iowa Code § 96.6(2) – Timely Appeal
Iowa Code § 96.4(3) – Able and Available/Work Search
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

Michele R James, the claimant/appellant, filed an appeal from the October 20, 2020, (reference 01) unemployment insurance decision that warned her to make at least two work-search contacts per week but did not deny benefits. Iowa Workforce Development mailed a notice of hearing to Ms. James' last address of record for a telephone hearing scheduled for May 13, 2021. A review of the Appeals Bureau's conference call system indicates that Ms. James did not respond to the hearing notice and provide a telephone number at which she could be reached for the scheduled hearing. Because Ms. James did not follow the instructions on the notice of hearing, no hearing was held.

ISSUE:

Should Ms. James' appeal be dismissed based on her not appearing and participating?

FINDINGS OF FACT:

Iowa Workforce Development notified Ms. James of the hearing. She did not respond to the hearing notice or otherwise provide a telephone number to the Appeals Bureau. She did not participate in the hearing or request a postponement. She did not follow the instructions on the hearing notice. Official notice is taken of the hearing control screen to establish that Ms. James did not provide a telephone number to the Appeals Bureau prior to the time of the scheduled hearing.

The hearing notice instruction specifically advises Ms. James of the date and time of the hearing. It also states:

IMPORTANT NOTICE!

YOU MUST PROVIDE YOUR PHONE NUMBER TO THE APPEALS BUREAU
AS SOON AS POSSIBLE. If you do not follow these instructions, the judge will

not call you for the hearing. You must also provide the name(s) and phone number(s) of any witnesses to the Appeals Bureau.

The back page of the hearing notice provides further instruction and warning:

Failure to Participate or Register for Appeal Hearing

If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence. The Appeals Bureau does not have a phone number for this hearing unless you provide it to us by following the instructions on the other side of this page. If you do not follow those instructions, the judge will not call you for the hearing. 871 IAC 26.14(7).

The information quoted above also appears on the hearing notice in Spanish.

As a courtesy to Ms. James, the administrative law judge left the record open for 15 minutes past the scheduled time of the hearing to give her a reasonable amount of time to call the Appeals Bureau to participate. Ms. James did not contact the Appeals Bureau or otherwise register for the hearing during that time period.

The unemployment insurance decision warned her to make at least two work-search contacts per week but did not deny benefits. Ms. James' appeal letter did not provide enough information to issue a decision without a hearing.

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.

Iowa Admin. Code r. 871-26.14(7) provides, in relevant part:

(7) If a 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 presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provide in Iowa Code section 17A.12(3).

In this case, Ms. James did not provide a telephone number to the Appeals Bureau prior to the scheduled hearing. Ms. James is in default and the appeal is dismissed.

If Ms. James disagrees with this decision, she may appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

DECISION:

The October 20, 2020, (reference 01) unemployment insurance decision remains in effect as Ms. James is in default.



Daniel Zeno
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

May 21, 2021
Decision Dated and Mailed

dz/kmj