

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

SHAWNDA GREEN

Claimant

and

TARGET CORPORATION

Employer

HEARING NUMBER: 20BUI-01990

**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 initially mailed March 9, 2020. The notice set a hearing for March 23, 2020. A second notice was mailed March 23, 2020 rescheduling the hearing for April 20, 2020. The Claimant contacted the agency on March 27th in response to the second notice by providing contact information. An additional agency communication was mailed on April 3, 2020 postponing the matter in an effort to reschedule the hearing due to the heavy backlog created by the COVID-19 pandemic. On the day of the hearing, the Claimant answered the call, but was unprepared as she understood the hearing was postponed. She was convinced to participate without having all her witnesses or documents available to participate in the hearing. The Claimant did not know the hearing was still to take place.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2019) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an 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.

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Here the Claimant was forced to participate in a hearing she reasonably believed had been postponed due to the confusion in the process. Because she was not allowed to subpoena all her witnesses for this hearing, and adequately prepare, we find she did not receive due process. The Claimant has established her intention to follow through with the appeal. For this reason, this matter shall be remanded for another hearing before a *different* administrative law judge so that the Claimant may avail herself of her due process right.

DECISION:

The decision of the administrative law judge dated May 4, 2020 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 a different 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.

Ashley R. Koopmans

James M. Strohman

Myron R. Linn

AMG/fnv