

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

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**JESUS CONTRERAS**

Claimant

and

**PRESTAGE FOODS OF IOWA LLC**

Employer

**HEARING NUMBER: 20BUI-09977**

**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 December 20, 2019. The notice set a hearing for January 14, 2020. The Claimant contacted the agency and provided a telephone number at which he could be called to participate in the hearing. On the day of the hearing, however, the Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because he didn't initially answer the call to participate. Approximately eight (8) minutes after the start of the hearing, the Claimant called in to participate in the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2015) 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 Claimant did not participate in the hearing because he did not, at first, answer the call to participate. Soon thereafter, the Claimant contacted the administrative law judge within a reasonable timeframe after the scheduled hearing time, which established his intention to follow through with the appeals process. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Claimant may avail himself of his due process right.

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We caution the Claimant that, barring exceptional circumstances, we will not again excuse a failure to call in a number where the Claimant could be reached. Your participation in the hearing is dependent on your answering the Administrative Law Judge's call to the number you provide.

You will receive another Notice of Hearing for which you must, again, provide your telephone number. When the Administrative Law Judge calls you, you must answer the call to gain access to the hearing. If you do not answer, you will not receive another opportunity to have a hearing.

**Advertimos al Demandante que, salvo circunstancias excepcionales, no volveremos a excusar la falta de llamada en un número en el que se pudiera contactar con el Demandante. Su participación en la audiencia depende de su respuesta a la llamada del Juez de Derecho Administrativo al número que usted proporcione.**

**Recibirá otro Aviso de audiencia para el que deberá, de nuevo, proporcionar su número de teléfono. Cuando el Juez de Derecho Administrativo lo llame, debe responder a la llamada para tener acceso a la audiencia. Si no responde, no recibirá otra oportunidad de tener una audiencia.**

**DECISION:**

The decision of the administrative law judge dated January 16, 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 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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Ashley R. Koopmans

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James M. Strohman

AMG/fnv

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Kim D. Schmett