

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

JERRALE WILLIAMS

Claimant

and

ROC TAPROOM INC

Employer

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HEARING NUMBER: 22B-UI-22094

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

STATEMENT OF THE CASE:

The issue of timeliness was raised when the Claimant filed an appeal faxed February 23, 2022, fifteen days beyond the statutory deadline of February 8, 2022. The reason for the delay was because the Claimant never received the Notice of Decision. For this reason, we find good cause has been established for the late appeal, and the board shall consider it to be timely.

FINDINGS OF FACT:

The notice of hearing in this matter was mailed November 4, 2021. The notice set a hearing for December 1, 2021 at 2:00 p.m. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Claimant was placed on hold when he called to participate. By the time someone returned to the phone, he was told it was too late. The Claimant contacted the administrative law judge approximately 18 minutes after the start of the scheduled hearing, but the record was closed.

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.

Here the Claimant did not participate in the hearing because he was unable to gain timely access to the administrative law judge having been placed on hold. We find 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.

We caution the Claimant that, barring exceptional circumstances, we will not again excuse a failure to call in to participate in the hearing.

DECISION:

The decision of the administrative law judge dated January 24, 2022 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.

Please note the way you appear at the hearing has changed. When you receive the Notice of Hearing, please read and follow the instructions carefully.

James M. Strohman

Myron R. Linn

AMG/fnv