

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**EBANGYA M ELOBI**  
Claimant

**KELLY SERVICES INC**  
Employer

**APPEAL NO. 14A-UI-13165-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/02/14  
Claimant: Appellant (6)**

Iowa Code § 17A.12(3) – Default Decision  
871 IAC 26.14(7) – Dismissal of Appeal on Default  
871 IAC 26.14(7)b – Late Call  
Iowa Code § 17A.12-3 – Non-Appearance of Party

**STATEMENT OF THE CASE:**

An appeal was filed from a representative's unemployment insurance decision dated December 2, 2014 (reference 02) that concluded Ebangya Elobi (claimant/appellant) was not eligible for unemployment insurance benefits after a separation from employment from Kelly Services (employer/respondent). Notices of hearing were mailed to the parties' last-known addresses of record, for a telephone hearing to be held at 9:00 a.m. on January 15, 2015. A review of the Appeals Bureau's conference call system indicates that the claimant/appellant was not available at the telephone number provided for the hearing so no hearing was held.

**ISSUE:**

The issue is whether the underlying decision should be affirmed and the appeal should be effectively dismissed based upon the claimant/appellant's failure to participate in the hearing.

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. The claimant/appellant received the hearing notice prior to the hearing scheduled on January 15, 2015. The instructions inform the parties that if the party does not contact the Appeals Section and provide the phone number at which the party can be contacted for the hearing, the party will not be called for the hearing. On December 31, 2014 the claimant/appellant contacted the Appeals Bureau and provided a telephone number for the hearing. At 11:33 a.m. on January 15, 2015 the claimant/appellant contacted the Appeals Bureau. The claimant/appellant forgot what day the hearing was scheduled even though he received the Notice of Appeal and Hearing. He slept through the administrative law judge's telephone call.

The representative's decision concluded that the claimant/appellant was not eligible for unemployment insurance benefits.

**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. The statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

Agency rule 871 IAC 26.14(7) provides that if the appealing 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 judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3).

The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rule further states that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. 871 IAC 26.14(7)c.

The statute does not allow the record to be reopened without good cause. This claimant/appellant has not provided good cause for reopening the record. The statute prohibits this administrative law judge from reopening the record without good cause. The record shall not be reopened.

Consequently, the claimant/appellant has therefore defaulted on his appeal pursuant to Iowa Code § 17A.12(3) and 871 IAC 26.14(7), and the representative's decision remains in full force and effect.

**DECISION:**

The representative's unemployment insurance decision dated December 2, 2014 (reference 02) is affirmed. The decision denying benefits remains in effect.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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