IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

ROBERT WALK
Claimant

GOOD SAMARITAN SOCIETY INC
Employer

APPEAL NO. 14A-UI-02670-BT

ADMINISTRATIVE LAW JUDGE
DECISION

OC: 02/09/14
Claimant: Respondent (6)

Iowa Code § 17A.12(3) - Default Decision
Iowa Admin. Code r. 871-26.14(7) - Dismissal of Appeal on Default

STATEMENT OF THE CASE:

An appeal was filed from a representative's unemployment insurance decision dated February 26, 2014, (reference 01), that concluded Robert Walk (claimant/respondent) was eligible for unemployment insurance benefits after a separation from employment from Good Samaritan Society, Inc. (employer/appellant). Notices of hearing were mailed to the parties' last-known addresses of record for a telephone hearing to be held at 1:00 p.m. on April 1, 2014. A review of the Appeals Bureau's conference call system indicates that the employer/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 employer/appellant's failure to participate in the hearing.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The employer/appellant was not available at the telephone number provided for the hearing and did not participate in the hearing.

The representative's decision concluded that the claimant/respondent was 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 Iowa Admin. Code r. 871-26.14(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. Iowa Admin. Code r. 871-26.14(7)c.

The employer/appellant appealed the unemployment insurance decision but failed to participate in the scheduled appeal hearing. The employer/appellant has therefore defaulted on its appeal pursuant to Iowa Code § 17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the representative's decision remains in force and effect.

If the appellant disagrees with this decision, a written request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at the scheduled time. The appellant also has the option to appeal the decision directly to the Employment Appeal Board, whose address is listed at the beginning of the decision.

DECISION:

The representative's unemployment insurance decision dated February 26, 2014, (reference 01), is affirmed. The decision granting benefits remains in effect.

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Susan D. Ackerman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-242-5144

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Decision Dated and Mailed

sda/pjs