

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**WESLEY R WASHINGTON**  
Claimant

**APPEAL NO. 15A-UI-02297-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 01/25/15**  
**Claimant: Respondent (6)**

Iowa Code § 17A.12(3) – Default Decision  
871 IAC 26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

The employer appealed a representative's February 9, 2015 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. Notices of hearing were mailed to the parties' last-known addresses of record informing them a telephone hearing would be held on March 23, 2015 at 9:30 a.m. A review of the Appeals Bureau's conference call system shows the employer/appellant was called for the scheduled hearing. The employer's witness was not available and no one else chose to participate at the hearing. The claimant participated at the hearing.

**ISSUE:**

Should the appeal be dismissed when the appellant does not participate in the hearing?

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. The employer was not available and did not participate in the hearing. The employer did not request a postponement of the hearing as required by the hearing notice.

The representative's February 9, 2015 determination held the claimant qualified to receive benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedures 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.

The Agency rules at 871 IAC 26.14(7) provide 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 rules further state 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 employer appealed the representative's February 9, 2015 determination but failed to participate in the hearing. The employer defaulted on its appeal. Based on Iowa Code § 17A.12(3) and 871 IAC 24.14(7), the representative's determination remains in full force and effect.

If the employer disagrees with this decision, a request must be made to the administrative law judge that the hearing be reopened 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 employer from participating in the hearing at its scheduled time.

**DECISION:**

The representative's February 9, 2015 determination (reference 01) is affirmed. The claimant remains qualified to receive benefits provided he meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

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Decision Dated and Mailed

dlw/pjs