

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISIONS, UI APPEALS BUREAU**

TRAVIS L MINER
Claimant

A+ LAWN & LANDSCAPING INC
Employer

APPEAL 21A-UI-19244-DZ-T

**ORDER DENYING REQUEST TO
RESCHEDULE HEAIRNG**

**OC: 10/23/22
Claimant: Appellant**

On December 13, 2022, Mr. Miner requested that the hearing in this matter, scheduled for December 15, 2022 at 9:00 a.m., be rescheduled because he had just hired an attorney. The same day, E. J. Flynn, Mr. Miner's attorney made the same request. The undersigned administrative law judge granted the request, and the hearing was rescheduled to January 9, 2023 at 8:00 a.m.

On January 4, 2023, the employer requested that the January 9, 2023 hearing be rescheduled because neither the employer's attorney nor the employer's representative were available at that day and time. The undersigned administrative law judge granted the request, and the hearing was rescheduled to January 25, 2023 at 9:00 a.m.

On January 19, 2023, the employer requested that the January 25, 2023 hearing be rescheduled. This was the employer's second request to reschedule the hearing. The employer requested the reschedule because Mr. Miner's attorney had requested records from Iowa Workforce Development and the employer was concerned that it would not have time to review the records before the hearing. The undersigned administrative law judge denied the request on January 20, 2023.

On January 20, 2023, Mr. Miner requested that the January 25, 2023 hearing be rescheduled. This was Mr. Miner's second request to reschedule the hearing. Mr. Miner requested the reschedule because of several concerns: 1) Mr. Miner's attorney had requested records from Iowa Workforce Development and he was concerned that he would not have time to review the records before the hearing, 2) Mr. Miner is concerned about employer's witnesses' availability for the hearing, and 3) the employer has not responded to Mr. Miner's written discovery so Mr. Miner is concerned that the January 25 hearing will become a compel hearing.

Iowa Administrative Code Section 871-26.8(2) and (3) provide:

(2) A hearing may be postponed by the presiding officer for good cause, either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement may be in writing or oral, provided the oral request is tape-recorded by the presiding officer, and is made not less than three days prior to the scheduled hearing. A party shall not be granted more than one postponement except in the case of extreme emergency.

(3) If, for good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing.

"Good cause" for purposes of this rule is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing. Examples of good cause include, but are not limited to, death, sudden illness, or accident involving the party or the party's immediate family (spouse, partner, children, parents, sibling) or other circumstances evidencing an emergency situation which was beyond the party's control and was not reasonably foreseeable. Examples of circumstances that do not constitute good cause include, but are not limited to, a lost or misplaced notice of hearing, confusion as to the date and time for the hearing, failure to follow the directions on the notice of hearing, oversleeping, or other acts demonstrating a lack of due care by the party.

The hearing in this has already been rescheduled twice – once at Mr. Miner's request and once at the employer's request. The administrative rule states that the hearing may only be rescheduled again for "extreme emergency." Although the rule does not explicitly define "extreme emergency," the "good cause" definition is instructive. "Good cause" is defined as an "emergency circumstance" such as "...death, sudden illness, or accident involving the party or the party's immediate family...." "Extreme emergency" necessarily implies that something more than an emergency is required for a hearing to rescheduled more than once. Mr. Miner has not established "extreme emergency" circumstances. The request to reschedule the hearing is DENIED.

The hearing remains scheduled for January 25, 2023 at 9:00 a.m.

It is so ordered.



Daniel Zeno
Administrative Law Judge

January 23, 2023
Order Dated and Mailed

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