

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**JOANNA L ROBERTS**

Claimant

**HEARING NUMBER: 17BUI-06965**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**SECTION:** 10A.601 Employment Appeal Board Review

**D E C I S I O N**

**FINDINGS OF FACT:**

The notice of hearing in this matter was mailed July 21, 2017. The notice set a hearing for August 2, 2017. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because when she tried to register online, she experienced difficulty with her Internet service. She subsequently contacted the agency for assistance, and was told there was no hearing scheduled for that date. When the 27<sup>th</sup> came, she again contacted the agency to be sure there was no hearing so she would not have to take time work off unnecessarily. She was again told there was no hearing. When she got home that evening, her voicemail revealed that the administrative law judge had called. The Claimant contacted the administrative law judge the following day.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2015) 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 she had not provided a telephone number for the administrative law judge to call. When the Claimant tried to register online, she was unable and received incorrect information from Workforce personnel when she called to provide a telephone number. The Claimant has established her intention to follow through with the appeals process, but for the erroneous information she received from the agency. For this reason, the matter will be remanded for another hearing before an administrative law judge so that the Claimant may avail herself of her due process right.

We caution the Claimant that, barring exceptional circumstances, we will not again excuse a failure to call in a number where the Claimant could be reached.

**DECISION:**

The decision of the administrative law judge dated July 28, 2017 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.

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Kim D. Schmett

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Ashley R. Koopmans

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James M. Strohman

AMG/fnv