

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHELLE D BODIE**

Claimant

**PEARSON GOVERNMENT SOLUTIONS INC**

Employer

**APPEAL NO: 10A-UI-05745-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/08/09**

**Claimant: Respondent (1)**

871 IAC 24.1(113)a – Lay-off

871 IAC 26.14(7) – Late Call

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated April 8, 2010, reference 04, that held the claimant was not discharged for misconduct on March 7, 2010, and benefits are allowed. A telephone hearing was scheduled for May 25, 2010. The claimant and employer did not participate.

**ISSUE:**

Whether the claimant was laid off for lack of work.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, finds: The claimant began employment on November 30, 2008, and she last worked for the employer on March 15, 2009. The claimant was laid off for lack of work.

The claimant was not available at the number she provided to be called for the hearing. Employer representative Marjorie Kinsel made a late call requesting to participate in this matter. The employer and/or its representative failed to call in advance of the hearing with a name and phone number to call for the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

At issue is a request to reopen the record made after the hearing had concluded. The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

The employer request to re-open the record is denied due to a late call to participate. The employer representative failed to offer a good cause for the late call.

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The administrative law judge further concludes the claimant was laid off for lack of work on March 15, 2009.

**DECISION:**

The department decision dated April 8, 2010, reference 04, is affirmed. The claimant was laid off for lack of work on March 15, 2010. Benefits are allowed, provided the claimant is otherwise eligible.

---

Randy L. Stephenson  
Administrative Law Judge

---

Decision Dated and Mailed

rls/css