

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MEGAN D BENCK**  
Claimant

**DM SERVICES INC**  
Employer

**APPEAL 16A-UI-09208-DL**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/31/16**  
**Claimant: Appellant (6)**

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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 an unemployment insurance decision dated August 16, 2016, (reference 01) that denied benefits based upon a discharge from employment. Notice of hearing was mailed to the parties' last-known addresses of record for a hearing to be held in Dubuque, Iowa, at 1:00 p.m. on October 17, 2016. The claimant/appellant failed to appear in response to the hearing notice instruction and no hearing was held. The employer did not appear.

**ISSUE:**

Should the appeal be dismissed based upon the appellant not responding to the hearing notice instruction and not appearing for the scheduled hearing?

**FINDINGS OF FACT:**

The party was properly notified of the scheduled hearing on this appeal. The appellant failed to respond to the hearing notice instruction and appear for the scheduled hearing, and did not request a postponement of the hearing.

The representative's decision concluded that the claimant/appellant was not eligible for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code section 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 hearing by appearing by the scheduled starting time of the hearing, the judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 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 appellant appealed the unemployment insurance decision but failed to appear to participate in the hearing. The appellant has therefore defaulted on her appeal pursuant to Iowa Code section 17A.12(3) and Iowa Admin. Code r. 871-26.14(7), and the decision remains in force and effect.

**DECISION:**

The appellant is in default and the appeal is dismissed. The unemployment insurance decision dated August 16, 2016, (reference 01) denying benefits remains in effect.

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Dévon M. Lewis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
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Decision Dated and Mailed

dml/rvs