

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARLINA R GRAFFT
Claimant

GRAPETREE MEDICAL STAFFING INC
Employer

APPEAL 21R-UI-08558-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/03/20
Claimant: Respondent (6)

Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

STATEMENT OF THE CASE:

The employer filed an appeal from the July 21, 2020 (reference 04) unemployment insurance decision that allowed benefits. A hearing was held on September 3, 2020, for appeal 20A-UI-08652-JT-T. Claimant Carlina R. Grafft did not register a telephone number and did not participate in the hearing. Employer Grapetree Medical Staffing, Inc. participated in the hearing. After Administrative Law Judge Timberland issued a decision, the claimant appealed to the Employment Appeal Board (EAB) stating she did not receive the Notice of Hearing. On March 18, 2021, the EAB remanded this matter for a new hearing due to the claimant's non-participation in the September 3 hearing.

After the EAB remanded, due notice was issued, a hearing was scheduled to be held on Wednesday, June 9, 2021. The claimant, Carlina R. Grafft, did not respond to the hearing notice and register a telephone number at which to be reached for this hearing. Because the EAB did not vacate the original appeal decision for 20A-UI-08652-JT-T, that hearing record, including any exhibits, is adopted and incorporated herein. No additional exhibits were offered.

ISSUE:

Should the original appeal decision be adopted?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's findings of fact in appeal 20A-UI-08652-JT-T is hereby adopted and incorporated herein as the findings of fact for appeal 21R-UI-08558-LJ-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's reasoning and conclusions of law in appeal 20A-UI-08652-JT-T is hereby adopted and incorporated herein as the reasoning and conclusions of law for appeal 21R-UI-08558-LJ-T. Benefits are allowed.

Iowa Admin. Code r. 871-26.14(7) provides:

If a 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 presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provide in Iowa Code section 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

Here, the claimant did not register a telephone number at which to be reached for the hearing, and therefore the hearing was not held. Although the claimant may have intended to participate in the hearing, the claimant's forgetfulness or negligence in failing to read or follow the hearing notice instructions does not constitute good cause to reopen the hearing. The employer did not call in at any point and establish good cause to reopen the hearing record.

As the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's reasoning and conclusions of law in appeal 20A-UI-08652-JT-T is hereby adopted and incorporated herein as the reasoning and conclusions of law for appeal 21R-UI-08558-LJ-T. Benefits are denied.

DECISION:

Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's decision in appeal 20A-UI-08652-JT-T is hereby adopted and incorporated herein as the decision for appeal 21R-UI-08558-LJ-T. The July 21, 2020 (reference 04) unemployment insurance decision remains reversed.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

June 22, 2021
Decision Dated and Mailed

lj/scn