

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

SARA BREKKE

Claimant

: **APPEAL NUMBER:** 23B-UI-18824

: **ALJ HEARING NUMBER:** 22A-UI-18824

:

and

:

**EMPLOYMENT APPEAL BOARD
DECISION**

:

TLH CLEANING LLC

:

:

Employer

:

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

The notice of hearing in this matter was mailed November 18, 2022 setting a hearing for December 6, 2022. The subsequent notice was sent November 22, 2022 setting a hearing for the same date as original hearing. The Employer did not appear for or participate in the hearing. The reason the Employer did not appear is because when he called the first number, he was placed on hold for nearly a half hour. When he realized the call-in numbers on the notices were different, he tried to call the second notice's number, but it was too late. The Employer was confused, as he didn't realize the second notice would have a different number to call to participate.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2019) 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 Employer did not participate in the hearing through confusion at having received two different notices for the same hearing date. We find the Employer's mistaking the call-in numbers to be the same was not wholly unreasonable. In light of these circumstances, we find the Employer had good cause for his nonparticipation. For this reason, we shall remand this matter for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated December 8, 2022 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 who shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Please note the way you appear at the hearing has changed. When you receive the Notice of Hearing, please read and follow the instructions carefully.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

AMG/fnv