

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CARLOS BONILLA
Claimant

AUREON CONTACT SERVICES INC
Employer

APPEAL 17R-UI-06788-TN-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/16/17
Claimant: Respondent (2)

Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Code Ch. 96 – Iowa Employment Security Act

STATEMENT OF THE CASE:

Aureon Contact Services, Inc., the employer, filed a timely appeal from an unemployment insurance representatives decision dated May 10, 2017 (reference 01) that held the claimant eligible for unemployment insurance benefits. Notices were sent to the parties last known addresses of record for a telephone hearing scheduled for and held on June 5, 2017. The employer participated. The claimant did not respond to the hearing notice and did not participate. On June 8, 2017 an administrative law judge decision was entered reversing the May 10, 2017, reference 01, adjudicators determination, finding that the claimant was discharged due to job related misconduct and withholding benefits until such time as the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided he is otherwise eligible. The administrative law judge decision concluded that the claimant had been overpaid unemployment insurance benefits in the amount of \$2,235.00 and that the claimant was obligated to repay that amount to the Agency, directing that the employer's account not be charged because the employer participated in the fact-finding interview.

The claimant, Carlos Bonilla, filed an appeal with the Employment Appeal Board on July 5, 2017; the Employment Appeal Board issued a decision remanding the matter back to the Iowa Workforce Development Appeals Section to schedule and conduct a due process hearing and directing the administrative law judge to issue an appealable decision. The July 5, 2017, Employment Appeal Board decision stated that the administrative law judge's decision not be vacated but to remain in force until or unless a differing decision is made pursuant to the Boards Remand order.

In compliance with the Employment Appeal Boards Remand directives, a telephone conference hearing was scheduled for 3:00 p.m., July 20, 2017. Notices were sent to the parties last known addresses of record on July 10, 2017 in advance of the July 20, 2017 hearing date.

Carlos Bonilla, the claimant, failed to respond to the hearing notice and did not register a telephone number at which he could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. The

employer's witness, Quint Bartlett, registered a telephone number and remained available to proceed in the remand hearing for an extended period of time before being released by the administrative law judge.

ISSUE:

Should the administrative law judge decision entered on June 8, 2017 reversing the May 10, 2017, Ref 01 decision and finding that the claimant was discharged for misconduct and concluding that the claimant had been over-paid unemployment insurance benefits in the amount of \$2,235.00 finding the claimant obligated to re-pay that amount and directing that the employer's account not be charged be affirmed based upon the claimant's failure to participate in the remand hearing?

FINDINGS OF FACT:

The parties were properly notified of the scheduled remand hearing on this appeal. The claimant, after being duly notified failed to register a telephone number at which he could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. The administrative law judge decision entered May, 2017 concluded the claimant was discharged for misconduct, disqualifying him from unemployment insurance benefits until such time as the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, and found the claimant is to repay \$2,235.00 in overpayment in unemployment insurance benefits finding that the employer account not be charged because the employer participated in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

The claimant, Carlos Bonilla, appealed the administrative law judge decision dated June 8, 2017 to the Employment Appeal Board. Pursuant to the Employment Appeal Board's decision dated July 5, 2017, the matter was appealed to the Appeals Section for an administrative law judge to conduct a due process hearing affording both the employer and the claimant to present evidence in the matter and directing an administrative law judge to enter an appealable decision.

Based upon the claimant's failure to participate in the scheduled appeal hearing, the administrative law judge concludes that the claimant has defaulted on his appeal Iowa Code Section 17A.12 (3) and Iowa Administrative Codes r.87-24.14 (7) The administrative law judge decision entered June 8, 2017 remains in force and effect.

DECISION:

The administrative law judge unemployment insurance decision entered June 8, 2017 reversing the May 10, 2017, (reference 01), decision is affirmed. The decision finding that the claimant was discharged job related misconduct withholding unemployment insurance benefits until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible and finding that the claimant has been overpaid in unemployment insurance benefits in the amount of \$2,235.00 and finding that the claimant is obligated to repay to the Agency and the employer non-chargeable remains in effect.

Terry Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn