

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

ALPHONSE CHIARITO

Claimant

and

HEARTLAND EXPRESS INC OF IOWA

Employer

HEARING NUMBER: 15B-UI-09179

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

The notice of hearing in this matter was mailed August 28, 2015. The notice set a hearing for September 1, 2015. The Claimant contacted the agency and provided it with a telephone number at which he could be reached for the hearing. However, on the day of the hearing, the Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Claimant had emergency dental surgery resulting from the surgery he had the day before. He contacted the administrative law judge as soon as he was coherent enough to talk (3:46 p.m.); but his appeal was already dismissed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2015) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a 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 Claimant did not participate in the hearing through no fault of the Claimant. The Claimant complied with the notice instructions by providing a telephone number at which he could be reached. However, due to circumstances beyond his control, he was unable to timely be available for the hearing (medical emergency). For this reason, we conclude good cause has been established for his nonparticipation. The Board shall remand this matter for another hearing before an administrative law judge.

DECISION:

The decision of the administrative law judge dated September 2, 2015 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv