

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**NGARUYE MUKONGO**

Claimant

**APPEAL NO: 20A-UI-03543-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS ENTERPRISES INC**

Employer

**OC: 03/15/20**

**Claimant: Appellant (6)**

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Iowa Code § 96.5(1) - Voluntary Quit  
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 claimant, Ngaruye Mukongo, filed an appeal on April 29, 2020 that the Appeals Bureau treated as a timely appeal from the May 4, 2020, reference 01, decision that disqualified Mr. Mukongo for unemployment insurance benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that Mr. Mukongo voluntarily quit on March 12, 2020 without good cause attributable to the employer. A notice of hearing was mailed to the parties' last-known addresses of record for a telephone hearing to be held at 11:00 a.m. on May 19, 2020. A review of the Appeals Bureau's conference call system indicates that the claimant/appellant, Mr. Mukongo, failed to respond to the hearing notice instructions to register a telephone number at which he could be reached for the hearing. The employer also did not register a telephone number for the appeal hearing. Based upon the claimant/appellant's failure to participate in the hearing and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

**ISSUE:**

Should the appeal be dismissed based upon the claimant/appellant not participating in the hearing?

**FINDINGS OF FACT:**

The claimant, Ngaruye Mukongo, is the appellant in this matter. On May 7, 2020, the Appeals Bureau mailed a hearing notice to Mr. Mukongo at his last known address of record to provide the required 10-day notice of the appeal hearing set for 11:00 a.m. on May 19, 2020. Mr. Mukongo's last known address of record was in Cedar Rapids. On May 8, 2020, the United States Postal Service returned the hearing notice as undeliverable with the following note: "Forward Time Exp Rtn to Send." The Postal Service included a forwarding address in Le Mars. The Appeals Bureau received the returned correspondence on May 12, 2020. On May 13, 2020, the Appeals Bureau mailed the hearing notice to the Le Mars address. In addition, the Appeals Bureau emailed the hearing notice to the email address Mr. Mukongo used to file his appeal. Mr. Mukongo did not respond to the hearing notice instruction to register a telephone

number for the hearing. Mr. Mukongo had not provided a telephone number in his online appeal. Mr. Mukongo did not otherwise provide the Appeal Bureau with a telephone number subsequent to filing his appeal. As of the entry of this default decision, the Appeals Bureau has not heard from Mr. Mukongo.

The May 4, 2020, reference 01, decision disqualified Mr. Mukongo for unemployment insurance benefits and held the employer's account would not be charged for benefits, based on the deputy's conclusion that Mr. Mukongo voluntarily quit on March 12, 2020 without good cause attributable to the employer.

#### **REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedures Act at Iowa Code § 17A.12(3) provides in pertinent part:

If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and make a decision in the absence of the party. ... If a decision is rendered against a party who failed to appear for the hearing and the presiding officer is timely requested by that party to vacate the decision for good cause, the time for initiating a further appeal is stayed pending a determination by the presiding officer to grant or deny the request. If adequate reasons are provided showing good cause for the party's failure to appear, the presiding officer shall vacate the decision and, after proper service of notice, conduct another evidentiary hearing. If adequate reasons are not provided showing good cause for the party's failure to appear, the presiding officer shall deny the motion to vacate.

Iowa Administrative Code rule 871-26.14(7) provides:

(7) 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 in writing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

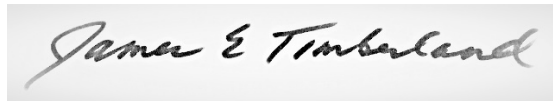
The claimant/appellant appealed the representative's decision but failed to participate in the hearing. The claimant/appellant has therefore defaulted on his appeal pursuant to Iowa

Code §17A.12(3) and Iowa Admin. Code r. 871-24.14(7), and the representative's decision remains in force and effect.

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

**DECISION:**

The claimant defaulted on her appeal. The appeal is dismissed. The May 4, 2020, reference 01, decision that disqualified the claimant for unemployment insurance benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant voluntarily quit on March 12, 2020 without good cause attributable to the employer, remains in effect.



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James E. Timberland  
Administrative Law Judge  
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May 21, 2020  
Decision Dated and Mailed

jet/scn