

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

JUAN R AGUINIGA-GOMEZ

Claimant,

and

TRUELSEN BLUMENTHAL LLC

Employer.

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HEARING NUMBER: 13B-UI-02411

**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 March 7, 2014. The notice set a hearing for March 24, 2014. The Claimant did not appear for or participate in the hearing. The reason the Claimant did not appear is because the Employer had appealed on his behalf, and the Claimant did not receive the Notice of Hearing. The Claimant did not know the hearing was taking place. Additionally, that decision determined that the Claimant, who did not appear or participate in the hearing, “defaulted pursuant to Iowa Code section 17A.12(3)...” and the previous decision remained in effect.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2011) 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 did not participate because Claimant did not receive the Notice of Hearing and did not know that a hearing was taking place. Although the administrative law judge entered a default decision based on the Claimant's failure to appear at the hearing, the Board finds that the Claimant provided good cause for his nonparticipation. For this reason, the matter will be remanded for another hearing before an administrative law judge.

DECISION:

The administrative law judge's default decision dated March 26, 2014 is 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.

Monique F. Kuester

Cloyd (Robby) Robinson

AMG/fnv