

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**MIKE D WILLIAMS**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL NO. 20A-UI-11713-JE**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/06/20**  
**Claimant: Appellant (6)**

Iowa Code § 96.4-3 – Able and Available for Work  
871 IAC 24.22(3) – Work Search - Warning  
Iowa Code § 17A.12(3) - Default Decision  
871 IAC 26.14(7) - Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

The claimant/appellant filed a timely appeal from a representative's unemployment insurance decision dated September 16, 2020, (reference 01), that concluded the he failed to make two job searches during the week ending September 12, 2020. Notice of hearing was mailed to the claimant/appellant's last known address of record for a hearing to be held November 16, 2020. The claimant/appellant provided a telephone number prior to the hearing but was not available at that number when called for the hearing.

**ISSUE:**

The issue is whether the underlying decision should be affirmed and the appeal should be effectively dismissed based upon the claimant/appellant's failure to participate in the hearing.

**FINDINGS OF FACT:**

A Notice of Appeal and Hearing was mailed to the claimant on September 16, 2020. There is no evidence suggesting the claimant/appellant did not receive the hearing notice prior to the hearing scheduled on November 16, 2020.

The claimant/appellant provided a phone number prior to the hearing but was not available at that number at the time of the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The representative's decision warned that the claimant/appellant must make two job searches for each week benefits are claimed.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default

decision or proceed with the hearing and make a decision in the absence of the party. Likewise, Agency rule 871 IAC 26.14(7) provides that if the appealing 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 judge may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code § 17A.12(3).

This rule does not provide exceptions for good intentions and/or a party contacting the Appeals Bureau within a reasonable amount of time after the hearing is scheduled. It can be assumed an appellant intends to participate in the hearing simply by the fact an appeal is filed, but their responsibility does not end there and all parties are required to follow the specific written instructions printed on the hearing notice. Due process requires notice and an opportunity to be heard, both of which were provided to the parties.

If the claimant/appellant responds to the notice of hearing after the record has been closed, the administrative law judge shall not take the evidence of the late party. Instead, the administrative law judge shall inquire ex parte as to why the party was late in responding to the notice of hearing. For good cause shown, the record shall be reopened and cause further notice of hearing to be issued. The record shall not be reopened without a finding of good cause for the party's late response to the notice of hearing. 871 IAC 26.14(7)b. Furthermore, the rule states that failure to read or follow the hearing notice instructions shall not constitute good cause. 871 IAC 26.14(7)c.

The claimant/appellant appealed the unemployment insurance decision but failed to participate in the scheduled appeal hearing. The claimant/appellant has therefore defaulted on his appeal pursuant to Iowa Code § 17A.12(3) and 871 IAC 26.14(7), and the representative's decision remains in force and effect.

If the claimant/appellant disagrees with this decision, he has the option to appeal the decision directly to the Employment Appeal Board, whose address is listed at the beginning of the decision.

**DECISION:**

The representative's unemployment insurance decision dated September 16, 2020, (reference 01), is affirmed. The decision warning the claimant about making two work searches each week benefits are claimed remains in effect.



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Julie Elder  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

November 20, 2020  
Decision Dated and Mailed

je/mh