

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

Appeal Number: 15IWDUI355
OC: 09/13/15
Claimant: Appellant (01)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319.**

ANTONIO D. GAUSE
330 - 29TH STREET DRIVE SE #24
CEDAR RAPIDS, IA 52404

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

KIRSTEN WOOD, IWD INVESTIGATOR

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

JONI BENSON, IWD
NICHOLAS OLIVENCIA, IWD

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

DECEMBER 11, 2015

(Decision Dated & Mailed)

Iowa Code section 17A.12(3) – Default
871 Iowa Administrative Code 26.14(6)-(7) – Failure to Appear

STATEMENT OF THE CASE

On October 9, 2015, Iowa Workforce Development (IWD) issued a decision that Antonio D. Gause (claimant) was not eligible to receive unemployment insurance benefits from October 4, 2015 to September 10, 2016 because of the imposition of an administrative penalty. On October 19, 2015, Gause filed the appeal.

On November 13, 2015, the Iowa Department of Inspections and Appeals (IWD), Division of Administrative Hearings (administrative hearings), issued a *Notice of Telephone Hearing* to all parties setting a hearing date of December 9, 2015 at 1:00 p.m. The notice provided instructions regarding how to participate in the telephone hearing.

On December 9, 2015 at approximately 1:00 p.m., the administrative law judge connected for the hearing. Kirsten Wood, an IWD investigator, timely connected for the hearing. As of 1:06 p.m., neither Gause nor a representative for Gause connected for the hearing.

REASONING AND CONCLUSIONS OF LAW

The Iowa Department of Workforce Development (IWD) is created to administer the laws of this state relating to unemployment compensation insurance, job placement and training, employment safety, labor standards, and workers' compensation. Iowa Code section 84A.1(1).

Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and the worker's family. See Iowa Code section 96.2.

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 provided in Iowa Code section 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing. See 871 Iowa Administrative Code (IAC) section 26.14(7).

In the case at issue, absent evidence to the contrary, Gause timely received the *Notice of Telephone Hearing* mailed to him on November 13, 2015 at his current address. Since Gause failed to connect for the scheduled appeal hearing on December 9, 2015 by 1:06 p.m., it is ORDERED that Gause defaulted on the appeal and Gause's appeal is dismissed.

DECISION

IWD shall take any actions necessary to implement this decision.

CBT