

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**CHARLES L KEPNER**  
Claimant

**DREAM TEAM LLC**  
Employer

**APPEAL NO. 16A-UI-05612-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/27/16**  
**Claimant: Appellant (6)**

Iowa Code § 17A.12(3) – Default Decision  
871 IAC 26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

Charles Kepner filed a late appeal from the April 15, 2016 (reference 01) decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on an Agency conclusion that Mr. Kepner had voluntarily quit on September 15, 2015 without good cause attributable to the employer. Notices of hearing were mailed to the parties' last-known addresses of record, for a telephone hearing to be held at 9:00 a.m. on June 6, 2016. At the time set for the hearing, the employer was available through Shannon Supinger. A review of the Appeals Bureau's conference call system indicates that the claimant/appellant, Mr. Kepner, failed to respond to the hearing notice instruction to provide a telephone number at which he could be reached for the hearing.

**ISSUE:**

Whether the claimant defaulted on his appeal by failing to register a telephone number for the appeal hearing.

**FINDINGS OF FACT:**

Claimant Charles Kepner is the appellant in this matter. The parties were properly notified of the scheduled hearing on this appeal. A Notice of Appeal and Hearing was mailed to both parties on May 20, 2016. There is no evidence suggesting Mr. Kepner did not receive the hearing notice.

The front page of the hearing notices states: "**You must register for the hearing immediately!** You must register your phone number and name(s) and phone number(s) with the Appeals Bureau. If you do not register, the judge will not be able to call you or your witness(es) for the

hearing.” The hearing notice instructions further advise the parties, “If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence or witness(es).”

The claimant/appellant failed to provide a telephone number at which he could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The April 15, 2016, reference 01, decision disqualified Mr. Kepner for benefits and relieved the employer’s account of liability for benefits, based on an Agency conclusion that Mr. Kepner had voluntarily quit on September 15, 2015 without good cause attributable to the employer.

#### **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. The statute further states that if a party makes a timely request to vacate the decision and shows good cause for failing to appear, the judge shall vacate the decision and conduct another hearing.

Iowa Administrative Code rule 871-26.14(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). The record may be reopened if the absent party makes a request to reopen the hearing and shows good cause for reopening the hearing. The rule further states that failure to read or follow the instructions on the notice of hearing is not good cause for reopening the record. Iowa Administrative Code rule 871-26.14(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 the claimant/appellant’s appeal pursuant to Iowa Code § 17A.12(3) and Iowa Administrative Code rule 871-26.14(7), and the representative’s decision remains in effect.

If the appellant disagrees with this decision, a written request to reopen the record must be made to the administrative law judge within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the end of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at the scheduled time. The appellant also 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 April 15, 2016 (reference 01) decision is affirmed. The decision that disqualified the claimant for benefits and that relieved the employer's account of liability for benefits, based on the September 15, 2015 separation, remains in effect.

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James E. Timberland  
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Des Moines, Iowa 50319-0209  
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Decision Dated and Mailed

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