

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
CENTRAL PANEL BUREAU

T & R CONSTRUCTION)
Cinda Mendez)
[REDACTED])
[REDACTED])
Appellant,)
v.)
IOWA WORKFORCE DEVELOPMENT,)
Respondent.)

Case No. 25IWDM0002
Agency Case No. 640769

**DEFAULT ORDER AND
DISMISSAL OF APPEAL**

The telephone hearing in this matter was originally scheduled for September 11, 2024, at 9:00 a.m. At the hearing, Appellant T&R Construction (T&R) stated it did not receive the administrative record, mailed by Iowa Workforce Development (IWD) on or about July 25, 2024. The record was then emailed to T&R. However, T&R did not have a chance to review and prepare for the submitted administrative record at that time. Iowa Admin. Code r. 871-26.14(3)(17A,96) (“ . . . Any party may inspect and use any portion of the administrative file necessary for the presentation of its case. The administrative file may include information from the claimant's files maintained in the agency's computer system.”). *See also* Iowa Code § 17A.12(4) (“Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.”); Iowa Code § 17A.12(6)(b) (“The record in a contested case shall include: . . . b. All evidence received or considered and all other submissions.”); Iowa Code § 17A.14(4).

Further, Ms. Mendez stated that she had retained an attorney for T&R representation in this matter, but was unable to contact counsel before the hearing. It was noted that no appearance of counsel for T&R had been submitted. When offered a continuance or “postponement” by the tribunal, T&R requested the matter be rescheduled and IWD did not object or resist a continuance. Iowa Admin. Code r. 871-26.11(4)(17A,96) (“Motions pertaining to the hearing must be filed and served at least five days prior to the date of the hearing unless there is good cause for permitting later action or the time is lengthened or shortened by the presiding officer.”). *Compare* Iowa Admin. Code r. 871-26.8(2)(17A,96) (“A hearing may be postponed by the presiding officer for good cause, either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement may be in writing or oral, provided the oral request is tape-recorded by the presiding officer, and is made not less than three days prior to the scheduled hearing. A party shall not be granted more than one postponement except in the case of extreme emergency.”).

The matter was continued to October 21, 2024, at 9:00 a.m. The parties were reminded

of the deadlines and their responsibilities pursuant to the Notice of Telephone Hearing. On the date of the continued hearing, IWD appeared and was prepared to present its case. However, no representative appeared for T&R. There was no email or other communication to explain T&R's failure to appear for the hearing. There was no appearance by counsel for T&R. This tribunal waited more than 15 minutes for T&R to appear.

Accordingly, T&R is in default and this appeal is dismissed. Iowa Admin. Code r. 871-26.14(7)(17A,96) ("If the appealing party . . . 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 no decision has been issued and if the absent party makes a request in writing to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.").

ORDER

The Appellant is in **DEFAULT** and this appeal is **DISMISSED**. IWD is directed to take all steps necessary to effectuate this decision.

IT IS SO ORDERED.

Dated October 21, 2024.

Copy to:

cc:


cinda@troofingconstruction.com (by Mail and Email)

Roxanna Devine, Charles Mercer, Shamar Hill, Vu Vo, Stephanie Goods, Lisa Gaeta,
Deborah Pendleton, Jeffrey Koncsol, Edvonna Pack, IWD (By AEDMS)

APPEAL RIGHTS

A presiding officer's decision constitutes final agency action in an employer liability contested case.

a. Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the issuance of the decision. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

b. Any party in interest may file a petition for judicial review in the Iowa district court within 30 days after the issuance of the decision or within 30 days after the denial of the request for rehearing.

Iowa Admin. Code r. 871-26.17(17A,96).

Case Title: CINDA MENDEZ DBA T & R CONSTRUCTION V. IOWA
WORKFORCE DEVELOPMENT
Case Number: 25IWDM0002
Type: Order - Abandonment/Default

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'F. Guddall', written in a cursive style.

Forrest Guddall, Administrative Law Judge