

STATE OF NORTH CAROLINA  
BOARD OF REVIEW



IN THE MATTER OF:

Higher Authority Decision No.

ATTN:

Claimant

Employer

Pursuant to N.C. Gen. Stat. § 96-15(e), this cause came before the Board of Review (“Board”) to consider the **(claimant’s) (employer’s) appeal** from an Order for Dismissal entered by Appeals Referee under Appeals Docket No. . The (claimant) (employer), as the appealing party, failed to appear at the scheduled hearing on , to prosecute (his) (her) (its) appeal from the Determination by Adjudicator under Docket No. . The (claimant) (employer) has moved the Board to set aside the aforesaid Order and remand the cause for rehearing and decision.

As grounds for (his) (her) (its) request to set aside Appeals Decision No. and remand the matter to the Appeals Section of the Division of Employment Security (“Division”) for a new hearing, the (claimant) (employer) asserts . A review of the record .

The Board concludes that the (claimant) (employer) has shown good cause as defined in 04 N.C. Admin. Code 24A .0105(26) for (his) (her) (its) failure to appear at the evidentiary hearing to give testimony and other evidence. Good cause must be a legally sufficient reason amounting to a legal excuse for failing to perform an act required by law in the exercise of due diligence. “Due diligence” means the measure of carefulness, precaution, attentiveness, and good judgment expected from, and exercised by a reasonable and prudent person under the particular circumstances. N.C. Admin. Code 24A .0105(21). Thus, the (claimant’s) (employer’s) request for another hearing must be allowed.

Based on the foregoing, the cause must be remanded to the Appeals Referee to conduct a **de novo hearing**.

**IMPORTANT - SEE FOLLOWING PAGE**



At the conclusion of the hearing on remand, the Appeals Referee must set aside the prior Order for Dismissal and issue a new decision with new findings of fact and conclusions of law. These findings of fact shall state the procedural history of the case, including all orders for continuances and remands, reasons for the remands, a summary of the requirements of the remand orders, and the parties and witnesses appearing at each of the hearings that were conducted in the matter.

The cause is **REMANDED** for further proceedings consistent with this decision.

IT IS ORDERED that all interested parties shall be duly notified as to the time and place of the hearing on remand, and the Appeals Referee shall identify the new decision at the conclusion of the hearing by using all previously assigned docket numbers.

IT IS ALSO ORDERED that all documents of the remanded record transmitted to the Appeals Section with this decision shall be forwarded to the Appeals Referee along with the notice of the hearing, and said documents shall be marked as exhibits and entered into the record by the Appeals Referee on remand to complete the record as required by law.

Board of Review members Susan Doe and Frank Doe participated in this appeal and concur with this decision.

This the .

BOARD OF REVIEW

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Chairman

**NOTICE TO ALL INTERESTED PARTIES**

A legal representative as defined in 04 N.C. Admin. Code 24A .0105(32) (including individuals from a third-party company serving as an employer's unemployment insurance administrator) must be a licensed attorney, or a person supervised by a licensed attorney in accordance with N.C. Gen. Stat. Ch. 84 and § 96-17(b). Notices and/or certification of attorney supervision must be in writing pursuant to 04 N.C. Admin. Code 24C .0504. **Legal representation in judicial proceedings must comply with N.C. Gen. Stat. Ch. 84.**

Pursuant to 04 N.C. Admin. Code 24C .0504, when a party has a legal representative, all documents or information required to be provided to the party will only be sent to the legal representative. Any information provided to a party's legal representative will have the same force and effect as if it had been sent directly to the party.

**For claims filed on or after June 30, 2013, claimants are subject to repayment of benefits received from any administrative or judicial decision that is later reversed on appeal. N.C. Gen. Stat. § 96-18(g)(2).**

Appeal Filed:

Decision Mailed: