

DISMISSAL OF APPEAL FOR FAILURE TO APPEAR

Failure to Appear

If the appealing party fails to appear at a telephone or in-person hearing, the Hearing Officer will dismiss the appeal pursuant to Section 4141.281 (D) (5) of the Ohio Revised Code. A Dismissal Notice is mailed to all interested parties either the day of (for morning hearings) or the day after (for afternoon and evening hearings) the scheduled hearing date.

Dismissal Notice Appeal Rights

An appellant must contact the Review Commission in writing within fourteen (14) days of the hearing date if they object to the dismissal. The appellant must show that the written notice of the hearing was not sent to the party's last known address or provide a "**good cause**" reason for failing to appear.

NOTE: Good cause is based on previous case law and determined on an individual case by case basis. From a legal standpoint, good cause is a justifiable reason for doing or not doing something as measured by what an ordinary reasonable person would do under the same or similar circumstances.

Initial Good Cause Findings

If the appellant files a timely request for a good cause review, their reason for failing to appear is evaluated by the Commission and a decision is made. Depending on the Commission's findings, either a Notice Vacating the Dismissal of Appeal (appellant had good cause for failing to appear) or a Notice Denying Vacate of Dismissal of Appeal (appellant did not show good cause for failing to appear) is then mailed to all interested parties.

Notice Vacating the Dismissal of Appeal

If the dismissal is vacated (appellant's request approved), the appellant met the good cause criteria for failing to appear and another hearing will be scheduled on the original merits of the case (issues listed on the original Hearing Notice). A new Hearing Notice will be mailed to all interested parties at least seven (7) days prior to the re-scheduled hearing.

Notice Denying Vacate of Dismissal of Appeal

If the dismissal is not vacated (appellant's request denied), the appellant did not meet the good cause criteria for failing to appear. The dismissal of the appeal will stand. If the request to vacate a dismissal is denied, the appellant may request a "show cause" hearing as set forth below.

Notice Denying Vacate of Dismissal Appeal Rights

An appellant must file a written request to the Review Commission asking for a show cause hearing within ten (10) days from the mailing date of the Notice Denying Vacate of Dismissal of Appeal. If the request is timely, a show cause hearing will be scheduled to determine whether or not the appellant provided good cause for failure to appear at the hearing.

DISMISSAL OF APPEAL FOR FAILURE TO APPEAR continued

Show Cause Hearings

The show cause hearing will address only the reasons for the failure to appear and determine if the appellant provided good cause. The appellant will have the opportunity to offer testimony and/or discuss any previously submitted documentation to show why they had good cause for failing to appear. The Hearing Officer will later issue a decision on whether the appellant had good cause or not for failing to appear at the hearing.

Show Cause Hearing Decisions

The Hearing Officer will use the good cause criteria to evaluate the evidence and send all interested parties a copy of the decision. If the Hearing Officer finds the appellant had good cause for failing to appear, another hearing will be scheduled on the original merits of the case. All interested parties will receive a Hearing Notice at least seven (7) days prior to the newly scheduled hearing. If the Hearing Officer finds the appellant did not show good cause for failing to appear, the Dismissal of Appeal becomes final.

Show Cause Hearing Decision Appeal Rights

If the dismissal of an appeal becomes final, an appellant has thirty (30) days from the mailing date of the Hearing Officer's decision to file an appeal with the Court of Common Pleas in the appropriate Ohio county. The county where an appellant files is determined by whether the appellant is the claimant (employee) or the employer.

NOTE: If the claimant (employee) is the appellant, they may file in the Ohio county where they live or if they last worked in Ohio may file in that Ohio county. If the employer is the appellant, they may file in the Ohio county where they live or the Ohio county where their principal place of business is located.

However, if a claimant is the appellant and does not live in Ohio or was not last employed in Ohio, or if an employer is the appellant and does not live or have a principal place of business in Ohio, then the appeal would need to be filed with the Court of Common Pleas of Franklin county.