

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**SUSAN I YOUSSEF**

Claimant,

and

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

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**HEARING NUMBER: 09B-UI-12632**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**SECTION: 10A.601 Employment Appeal Board Review**

**FINDINGS OF FACT:**

A hearing in the above matter was held September 18, 2009. The administrative law judge's decision was issued September 21, 2009. The administrative law judge's decision has been appealed to the Employment Appeal Board. The file, however, contains no claims deputy decision, Ref. 02, dated August 25, 2009 upon which the administrative law judge based on their decision.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 10A.601(4) (2009) provides:

5. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

Since the record of the hearing before the administrative law judge cannot be reviewed because there is no prior claims deputy decision (Ref. 02 dated August 25, 2009), the Employment Appeal Board has no prior file or applicable law to review. This matter must be remanded for a new hearing.

**DECISION:**

The decision of the administrative law judge dated September 21, 2009, is not vacated at this time. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section to schedule and hold a new hearing. The Board hereby retains jurisdiction over this appeal pending the commencement of the new hearing. If, at any time prior to the commencement of the new hearing, the claims deputy's decision, Ref. 02, dated August 25, 2009 is located by the Department then the new hearing should not be held. In the event that decision is so located, the Board shall be notified of this by the Department. The Board will then proceed to review the original decision based upon the claims deputy decision, Ref. 02, dated August 25, 2009 and pursuant to the original appeal to the Board. If that decision is not located prior to the commencement of the new hearing, then the administrative law judge shall conduct the new hearing following due notice. After the new hearing, the administrative law judge shall issue a decision, which provides the parties appeal rights.

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John A. Peno

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Elizabeth L. Seiser

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Monique F. Kuester

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