

must be remanded for a new hearing.

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DECISION:

The decision of the administrative law judge dated May 1, 2008, 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, an adequate recording of the original hearing is located by the Department then the new hearing should not be held. In the event that the recording of the original hearing 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 original record and pursuant to the original appeal to the Board. If the recording of the original hearing 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.

John A. Peno

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