

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

LEROY M MITCHELL

Claimant

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HEARING NUMBER: 22B-UI-07971

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

The claimant/appellant filed an appeal from the March 17, 2022, (reference 03) decision that concluded the claimant was overpaid federal FPUC benefits in the amount of \$1,500.00 for the 5-week period ending January 30, 2021.

A hearing in the above matter was scheduled for May 10, 2022. The administrative law judge's decision was issued May 31, 2022 and found the Claimant in default. The administrative law judge's decision has been appealed to the Employment Appeal Board. The overpayment in this matter was a result of the disqualification in case 22A-UI-07968.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2022) 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.

Pursuant to this authority we review this case and determine to remand it for further proceedings consistent with this decision. We remand because the overpayment in this matter is a result of the disqualification in case 22A-UI-07968. Since we have today remanded case 22A-UI-07968, we remand this case as well. The result in this matter will be determined by the outcome of the remand in case 22A-UI-07968. If the Administrative Law Judge on remand finds the appeal in case 22A-UI-07968 timely, and allows benefits, then there will be no overpayment based on the disqualification in case 22A-UI-07968.

Claimant submitted additional evidence to the Board which was not contained in the administrative file and which was not submitted to the administrative law judge. While the additional evidence was reviewed for the purposes of determining whether admission of the evidence was warranted despite it not being presented at hearing, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision. There is no sufficient cause why the new and additional information was not presented at hearing. Accordingly none of the new and additional information submitted has been relied upon in making our decision, and none of it has received any weight whatsoever, but rather all of it has been wholly disregarded.

DECISION: The decision of the administrative law judge dated May 31, 2022 is not vacated at this time, and remains in force unless and until the Department makes a differing determination pursuant to this remand. This matter is remanded to an administrative law judge who shall conduct a new hearing following due notice. After the hearing, the administrative law judge shall issue a decision that provides the parties appeal rights.

The parties are cautioned to read and follow the directions in the notice of hearing, and to carefully note any differing times and PIN numbers listed in that notice of hearing.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn