



participate in the hearing. The Claimant's nonparticipation in the hearing was through no fault of the Claimant. Although the Claimant may have received the Notice of Hearing, it was not meaningful to him. There is no question that due process principles apply in the context of hearings for persons seeking unemployment benefits. Silva v. Employment Appeal Board, 547 N.W.2d 232 (Iowa App. 1996). Two of the benchmarks of due process are adequate notice and meaningful opportunity to be heard. Iowa courts have held that due process requires "the opportunity to be heard at a meaningful time and a meaningful manner." Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985).

The Claimant was not afforded due process rights. The Claimant was precluded from fully participating in the hearing before the administrative law judge because the notice was not "meaningful" when he received it and required further time and effort on his part to gain its meaning. While the Claimant was literally provided notice and the subsequent decision, these documents had no meaningful effect such that he could comply either documents' instructions. Thus, the notice did not give the Claimant an opportunity to be heard at a meaningful time and in a meaningful manner. And his failure to understand the Notice of Decision due to the language barrier, surely affected his ability to respond.

Because the Board's decision turns on the procedural issue of due process, we cannot reach the substantive questions in this case. For this reason, we would remand this matter for new hearing before an administrative law judge.

#### **DECISION:**

The decision of the administrative law judge dated January 5, 2017 is not vacated 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 in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights. This decision of the administrative law judge shall be based upon that evidence, including testimony and exhibits, which is admitted in the new hearing, and may not be based on evidence adduced during the first hearing unless that evidence from the first hearing is made part of the record during the second hearing.

The Employment Appeal Board notes that the Claimant will need the assistance of an interpreter who speaks Amharic.

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Ashley R. Koopmans

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James M. Strohman

**DISSENTING OPINION OF KIM D. SCHMETT:**

I respectfully dissent from the decision of the Employment Appeal Board; I would affirm the decision of the administrative law judge in its entirety. I would also deny the Claimant's request to remand this matter.

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Kim D. Schmett

AMG/fnv