

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

ZEDRICK D RICHARDSON

Claimant,

and

STEELSMITH ENTERPRISES LLC

Employer.

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HEARING NUMBER: 14B-UI-10014

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

SECTION: 10A.601 Employment Appeal Board Review

FINDINGS OF FACT:

A hearing in the above matter was scheduled for October 15, 2014 in which the issues to be determined were whether the claimant was laid off; discharged for misconduct; or whether the claimant voluntarily left for good cause attributable to the employer.

During the hearing, the reasons for the Claimant's absences, as well as the dates were unclear. The administrative law judge's decision was issued on October 27, 2014, which determined that the Claimant was discharged for no disqualifying reason, and was allowed benefits. The administrative law judge's decision has been appealed to the Employment Appeal Board.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2011) 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.

The Employment Appeal Board concludes that the record as it stands is insufficient for the Board to issue a decision on the merits of the case. As the Iowa Court of Appeals noted in *Baker v. Employment Appeal Board*, 551 N.W. 2d 646 (Iowa App. 1996), the administrative law judge has a heightened duty to develop the record from available evidence and testimony given the administrative law judge's presumed expertise.

Before the Board can issue a decision in this matter, we need more clarification as to the dates of the Claimant's absences and the nature of those absences as well. Since we do not know the answers to these questions, the Board must remand this matter for the limited purpose of taking additional evidence to answer these questions.

DECISION:

The decision of the administrative law judge dated October 27, 2014 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau, for further development of the record consistent with this decision, unless otherwise already addressed. The administrative law judge shall conduct a hearing following due notice, if necessary. If a hearing is held, then the administrative law judge shall issue a decision which provides the parties appeal rights.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/ss

DATED AND MAILED_____