



administrative law judge has a heightened duty to develop the record from available evidence and testimony given the administrative law judge's presumed expertise. Therefore, this matter is remanded for a new hearing so that the administrative law judge may obtain additional evidence as to what business is now operating out of the this location.

**DECISION:**

The decision of the administrative law judge dated July 9, 2008, is not vacated at this time. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section, for further development of this record. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a new decision, which provides the parties appeal rights.

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Elizabeth L. Seiser

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Monique F. Kuester

AMG/fnv

**DISSENTING OPINION OF JOHN A. PENO:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would find that the record contains enough evidence to determine that ASR ceased to function at the premises. ASR did not sell or transfer their business to another employer and does not operate anywhere in the state of Iowa. (Tr. 6, lines 8-10) Although the "doors did not close" at the premises within the meaning of the law, I would find that under the circumstances the employer's ceasing to do business, at all, was analogous and tantamount to a business closing. For this reason, I would conclude that the claimant should be allowed benefits provided he is otherwise eligible.

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John A. Peno

AMG/fnv