

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

JANE R WICKLER	:	
	:	
Claimant,	:	HEARING NUMBER: 09B-UI-10738
	:	
and	:	
	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
IOWA WORKFORCE DEVELOPMENT	:	

SECTION: 10A.601 Employment Appeal Board Review

FINDINGS OF FACT:

A hearing in the above matter was held August 12, 2009. The administrative law judge's decision was issued August 18, 2009, which held that the claimant was overpaid in the amount of \$2,225.30. The administrative law judge's decision has been appealed to the Employment Appeal Board who had previously issued a decision on the separation issue (09B-UI-08045 dated August 19, 2009) for which this overpayment was created. The Board also remanded the matter to the Iowa Workforce Development Center, Claims Section, for a determination of the able and available issue.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2005) 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 Board has already made a decision regarding the merits of this case, which allowed benefits provided the claimant was otherwise eligible. Since we do not yet know if the claimant was able and available for work, we remand this matter in light of our previously mentioned decision. (See attached prior Employment Appeal Board decision.)

DECISION:

The decision of the administrative law judge dated August 18, 2009 is not vacated. This matter is remanded to the Iowa Workforce Development Center, Claims Section, for a determination of the able and available issue, if such determination has not yet been made.

John A. Peno

Elizabeth L. Seiser

Monique F. Kuester

AMG/ss