

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

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**JEREMY T ELLISON**

Claimant,

and

**PANAMA TRANSFER INC**

Employer.

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**HEARING NUMBER: 15B-UI-12785**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**SECTION: 96.6-2**

**D E C I S I O N**

**FINDINGS OF FACT:**

The administrative law judge issued a decision in this matter 14A-UI-12785. The decision disposed of a preliminary matter only and remanded the substantive issue of benefits to the claims section. The Claimant appealed the preliminary decision of the administrative law judge to the Employment Appeal Board.

**REASONING AND CONCLUSIONS OF LAW:**

Pursuant to 486 IAC 3.1(2), "a party aggrieved by a decision of an administrative law judge may appeal to the employment appeal board..." The Employment Appeal Board interprets an aggrieved party to be one who receives an unfavorable decision from the administrative law judge affecting benefit rights, or overpayment. Here the decision of the administrative law judge only rules on a preliminary matter, that is, whether the protest was timely. The Administrative Law Judge remanded the issue of whether benefits should be allowed, and the Claims Representative issued a decision on January 28, 2015 allowing benefits. In short, at this point the question of protest timeliness is moot. The Administrative Law Judge issued an appealable decision in a case in which no dispositive decision had been made. The Claimant has, understandably, chosen to appeal the timeliness issue just in case he lost on remand. A far better practice is the one we choose today. We dismiss the current appeal as an appeal of a preliminary matter the disposition of which has not yet aggrieved the Claimant. We expressly now hold that if an appeal to an Administrative Law Judge is filed concerning the separation that was the basis of the protest, and if as a result of that appeal an Administrative Law Judge issues a decision adverse to the Claimant in this matter, then the Claimant may appeal that Administrative Law Judge decision to the Board, and during that appeal to the Board the issue of timeliness of protest can be adjudicated based on the record in both this case and that one.

**DECISION:**

The appeal of the Administrative Law Judge's decision in case 14A-UI-12785 is **DISMISSED**. The decision of the administrative law judge remains in full force and effect. The Claimant may appeal the issue of timeliness of protest if and when a decision is made adversely affecting the Claimant's ability to collect benefits, and which decision is based on the separation which formed the basis of the protest.

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Kim D. Schmett

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Ashley R. Koopmans

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James M. Strohman

RRA/fnv