

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

DALE JOHNSON

Claimant

and

RHINEHART RAILROAD

Employer

:
:
:
:
:
:
:
:
:
:
:

HEARING NUMBER: 16B-UI-02522

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

A hearing in the above matter was scheduled for March 21, 2016 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; and whether the Claimant was able and available for work.

At the hearing, the Claimant testified that the Employer offered a new project out-of-state (east coast) at the same rate of pay while he was on layoff, but without the benefits he had previously received. The Claimant understood that the job entailed some travel, but chose not to accept work on the new project because it was not economically feasible for him to do so.

The administrative law judge's decision was issued March 22, 2016, which determined that the Claimant voluntarily quit his employment by refusing to transfer. 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) (2015) 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.

Although the Claimant was told his job may require travel, there is nothing in the record to substantiate the extent of travel that was contemplated in the Claimant's original contract of hire such that we can determine whether the Claimant had good cause to refuse the Employer's offer of work. Since we do not know the answer to this question, we cannot determine if the Claimant refused a suitable offer of work. In order to determine the answer to this question, the Board must remand this matter for the taking of additional evidence to that end.

DECISION:

The decision of the administrative law judge dated March 22, 2016 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/fnv