BEFORE THE EMPLOYMENT APPEAL BOARD Lucas State Office Building

Fourth floor
Des Moines, Iowa 50319

CORY WILLIAMS

HEARING NUMBER: 18BUI-09484

Claimant

and

:

1ST CLASS SECURITY INC

EMPLOYMENT APPEAL BOARD DECISION

Employer

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

A hearing in the above matter was scheduled for September 28, 2018 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. At the hearing, the Employer testified the Claimant's security license was revoked, and the Claimant was subsequently terminated. The administrative law judge's decision was issued October 3, 2018, which determined that the Claimant was discharged due to job-related misconduct and denied 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) (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 lowa Court of Appeals noted in *Baker v. Employment Appeal Board*, 551 N.W. 2d 646 (lowa 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.

Facts establish the Claimant's security license was revoked. However, there was no evidence adduced as to when and why this revocation occurred. Since we do not know the answers to these questions, the Board must remand this matter for the taking of additional evidence from the parties regarding the details of when and why the Claimant lost his security license that resulted in his termination.

DECISION:

The decision of the administrative law judge dated October 3, 2018 is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this remand. 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