

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

ILENE D WYATT

Claimant

APPEAL NO: 12A-UI-03548-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARAMARK SPORTS LLC

Employer

OC: 02/19/12

Claimant: Appellant (2/R)

Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 29, 2012 determination (reference 01) that held her ineligible to receive benefits because she was not partially unemployed. The claimant responded to the hearing notice, but she was not available for the hearing. A message was left for the claimant to contact the Appeals Section immediately. R. Bowman appeared on the employer's behalf.

In the claimant's appeal letter she indicated her employment had ended. The employer verified the claimant's employment ended prior to February 19, 2012. Since the issue the determination should have addressed was a separation issue instead of whether the claimant was partially unemployed, there was no hearing on April 23. Without the claimant at the hearing, the separation issue could not be addressed at the April 23 hearing.

An hour after the hearing had been scheduled the claimant contacted the Appeals Section. She was informed there was no hearing because the issue addressed in the determination and on the hearing notices was not correct. The claimant was told the issue regarding the reason for her employment would be remanded to the Claims Section to investigate at a fact-finding interview and a written determination would be mailed to the parties.

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of February 19, 2012. The claimant's employment ended before she established her claim. The employer's third party representative, TALX, stated in a March 22, 2012 letter the claimant was working all available hours.

The fact finder did not have anyone participate at the fact-finding interview. The fact finder only had TALX's representative March 22 letter that the claimant was working all available hours. Since neither party participated in the fact finding interview, the fact finder issued an incorrect determination that held the claimant was not eligible to receive benefits because she was not partially unemployed.

When the claimant filed weekly claims, she reported no wages. At the hearing, the employer verified the claimant's employment ended before February 19, 2012. Since the claimant was not available for the scheduled hearing, the separation issue must be remanded to the Claims Section to conduct a fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

The fact-finder issued a March 29, 2012 determination that was based on a TALX representative's incorrect false representation that the claimant was working all available hours. When the TALX representative made this statement in a March 22 letter, the claimant's employment had ended over a month earlier.

A fact finder can only make determinations based on information provided. Since neither the claimant nor Bowman participated in the fact-finding interview, the fact finder based the determination on the only information provided by a TALX representative. Since the determination was not correct, this determination is reversed.

The reason for the claimant's employment separation will be remanded to the Claims Section to conduct a fact-finding interview. Since a fact finder's determination is based on facts presented, it is suggested that the claimant and the employer participate in this fact-finding interview. If the employer chooses to have a TALX representative provide information about the reasons for the claimant's employment separation, the employer should provide TALX with accurate and timely information so incorrect information is not again provided.

DECISION:

The representative's March 29, 2012 determination (reference 01) is reversed. This determination is reversed because the determination was based in inaccurate information from a TALX representative. When the claimant established her claim for benefits the week of February 19, 2012, she no longer worked for the employer. The reasons for the claimant's employment separation is **Remanded** to the Claims Section to investigate and issue a written determination.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs