

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

GREGORY R SCHOENBAUM

Claimant,

and

ADVANCE SERVICES INC

Employer.

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HEARING NUMBER: 11B-UI-01851

**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 held March 15, 2011 in which the issue to be determined was whether the claimant was able and available for work. During the hearing, the claimant made reference to making application for department approved training (DAT) that had not yet been resolved. (Tr. 3)

The administrative law judge's decision was issued March 28, 2011, which determined that the claimant was "...not eligible to receive benefits because attending school full-time has restricted his availability for work to the extent he is only available to work 10 hours a week when prior to January 9, 2011 he was available to work 40 hours a week..." 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) (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 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 in light of the new and additional evidence submitted on appeal by the claimant, which has a significant bearing on the outcome of this matter. Therefore, the Board is remanding this matter for further consideration.

DECISION:

The decision of the administrative law judge dated March 28, 2011 is not vacated. This matter is remanded to the Iowa Workforce Development Center, Claims Section, for a redetermination in consideration of the March 23, 2011 decision (attached), if not already addressed.

John A. Peno

Monique F. Kuester

Elizabeth L. Seiser

AMG/fnv