

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

MICHAEL MADIT

Claimant,

and

BRIDGESTONE AMERICAS TIRE

Employer.

HEARING NUMBER: 14B-UI-02729

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

The Notice of Hearing in this matter was mailed March 14, 2014. The notice set a hearing for April 3, 2014. The Claimant is a person having limited proficiency in the English language. He marginally participated in the hearing without an interpreter.

The administrative law judge's decision was issued April 8, 2014, which determined that the Claimant was ineligible for benefits because he was discharged from work for misconduct. 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) (2011) provides:

4. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of a 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.

Here, the Claimant's lack of proficiency in English created a language barrier, which played a key role in the Claimant's ability to defend his case. There is no question that due process principles apply in the context of hearings for persons seeking unemployment benefits. Silva v. Employment Appeal Board, 547 N.W.2d 232 (Iowa App. 1996). Two of the benchmarks of due process are adequate notice and meaningful opportunity to be heard. Iowa courts have held that due process requires "the opportunity to be heard at a meaningful time and a meaningful manner." Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985).

The Claimant was not afforded due process rights. The Claimant was precluded from fully presenting his case due to the language barrier. While the Claimant did, in fact, participate in the hearing, he did so without the use of an interpreter whose services would have significantly aided in his ability to defend his case. Because the Board's decision turns on the procedural issue of due process, we cannot reach the substantive questions in this case. For this reason, we would remand this matter for new hearing before an administrative law judge so that the Claimant may be provided with an interpreter to assist him in presenting his case.

DECISION:

The decision of the administrative law judge dated April 8, 2014 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

Kim D. Schmett

Cloyd (Robby) Robinson

Ashley R. Koopmans

AMG/fnv