

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

TERRI J CHASE

Claimant,

and

HYPRO INC

Employer.

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HEARING NUMBER: 11B-UI-14137

**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 November 28, 2010 in which the issues to be determined were whether the claimant was discharged for misconduct and whether the claimant voluntarily left for good cause attributable to the employer. The administrative law judge's decision was issued November 30, 2010, which determined that the claimant was discharged for disqualifying misconduct and denied benefits.

The claimant subsequently filed an appeal, which was accompanied with a Unemployment Insurance Decision dated December 2, 2010, 2 days after the administrative law judge's decision on the merits of this matter. That decision determined that the employer's protest was untimely.

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 has taken official notice of the Unemployment Insurance Decision, which we find both material and relevant to the issues to be determined. For this reason, we shall remand this matter for further consideration of the timeliness issue of the employer's protest as it relates to the merits of this matter.

DECISION:

The decision of the administrative law judge dated November 30, 2010 is not vacated. The Board recommends that this matter be remanded to the same administrative law judge in the Workforce Development Center, Appeals Section, 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.

John A. Peno

Monique F. Kuester

Elizabeth L. Seiser

AMG/fnv