

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

JACQUELINE L RONNFELDT

Claimant,

and

AGRI STAR MEAT & POULTRY LLC

Employer.

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HEARING NUMBER: 11B-UI-01731

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

This matter came before an administrative law judge prior to a hearing being held. The administrative law judge did not hold a hearing specifically because the Unemployment Insurance Services Division had issued a second fact-finding decision that allowed the claimant's requested relief. The administrative law judge's decision was issued February 16, 2011, which determined that the claimant was entitled to receive benefits provided she was otherwise eligible.

The employer was not allowed to submit any evidence regarding why the claimant is not able to return to work. 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 because there is no record upon which to review, the Board cannot issue a decision on the merits of the case. The employer submitted (on appeal) new and additional evidence which appears to be both material and relevant to this matter but were not submitted to the administrative law judge because there was no hearing. As the Iowa Court of Appeals noted in *Baker v. Employment Appeal Board*, 551 N.W. 2d 646 (Iowa 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. The Board is therefore remanding this matter for the taking of additional evidence from both parties to be given further consideration.

DECISION:

The decision of the administrative law judge dated February 16, 2011 is not vacated. This matter is remanded to an 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