

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

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**SCOTT W EAGER**

Claimant,

and

**ENTERPRISE RENT-A-CAR COMPANY**

Employer.

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**HEARING NUMBER: 11B-UI-02688**

**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 April 11, 2011 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 April 13, 2011, which determined that the claimant was "...eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements." 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:

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. The record does not establish the basis for the employer's delay in discharging the claimant in January of 2011 for an act that occurred on November 22, 2010, but was discovered in early December. 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. Since we do not know the reason for the delay, the Board must remand this matter for the taking of additional evidence of the same.

**DECISION:**

The decision of the administrative law judge dated April 13, 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.

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John A. Peno

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Elizabeth L. Seiser

AMG/fnv