

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

ALISHA L WHITE

Claimant,

and

BROADLAWNS MEDICAL CENTER

Employer.

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HEARING NUMBER: 14B-UI-11919

**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 scheduled for November 14, 2013 in which the issues to be determined were whether the separation was a layoff; discharge for misconduct or voluntary quit without good cause attributable to the employer.

The administrative law judge's decision was issued November 15, 2013, which determined that the claimant was discharged due to excessive absenteeism and not eligible for benefits. That decision, however, did not establish the reasons for the Claimant's many absences and details about her verbal and written warnings. 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) (2013) 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. 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. There is no evidence in the record to establish what the Claimant's prior absences were that led to her excessive attendance record or the specifics about her numerous warnings. Since we do not know the answers to these questions, the Board must remand this matter for the taking of additional evidence to determine whether those absences were excused (due to illness) or unexcused.

DECISION:

The decision of the administrative law judge dated November 15, 2013 is not vacated. This matter is remanded to an administrative law judge in the Unemployment Insurance Appeals Bureau, 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.

Monique F. Kuester

Cloyd (Robby) Robinson

AMG/fnv