

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

BLAKE S CHAPMAN

Claimant

and

AIRPORT NATIONAL GOLF INC

Employer

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HEARING NUMBER: 15B-UI-01496

**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 April 7, 2015 in which the issues to be determined were whether the claimant was laid off; discharged for misconduct; or whether the claimant voluntarily left for good cause attributable to the employer. Additional issues to be determined were whether the claimant was overpaid benefits and liable to repay benefits and/or charge the Employer due to Employer participation in the Fact-finding Interview.

The Claimant worked for the Employer for full-time hours for a 10-month position from January 24, 2014 through December 23, 2014; and was supposed to return to work on February 23, 2015. In mid-January, the Employer asked the Claimant if he could return earlier. The Claimant declined, and turned in his resignation on February 4, 2015, as he intended to take classes over the winter. The administrative law judge's decision dated April 13, 2015, found the Claimant was eligible for benefits through February 4, 2015, but disqualified thereafter. 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. 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.

Here, the decision contains no factual findings as to whether there was a separation, and if so, whether it was the result of the completion of a contract or was the Claimant actually temporarily laid off. Did the Employer make the Claimant an offer of work? See, 871 IAC 24.26 (19). Since we do not know the answers to these questions, the Board must remand this matter for the taking of additional evidence to determine these issues. In addition, the Board would also remand this matter for proper notice of the able and available issue that was raised at the hearing, but not waived.

DECISION:

The decision of the administrative law judge dated April 13, 2015 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.

Kim D. Schmett

Ashley R. Koopmans

AMG/fnv

James M. Strohman