



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: AUGUST 11, 2022

IN THE MATTER OF:

Appeal Board No. 622862

PRESENT: MICHAEL T. GREASON, MEMBER

In Appeal Board Case Nos. 622860, 622861 and 622862, the claimant appeals from the decisions of the Administrative Law Judge filed April 7, 2022, insofar as they sustained the determinations holding the claimant ineligible to receive benefits, effective January 4, 2021 through January 31, 2021, on the basis that the claimant was not totally unemployed; charging the claimant with an overpayment of \$1,816.00 in Extended Benefits recoverable pursuant to Labor Law § 597 (4); charging the claimant with an overpayment of Federal Pandemic

Unemployment Compensation of \$1,200.00 recoverable pursuant to Section 2104 (f)(2) of the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020; and reducing the claimant's right to receive future benefits by 32 effective days and charging a civil penalty of \$452.40 on the basis that the claimant made willful misrepresentations to obtain benefits.

Our review of the record reveals that the case should be remanded to hold a hearing. Further testimony and evidence is needed with respect to the number of hours that the claimant was in training each week during the period of January 18, 2021 through January 31, 2021. At the remand hearing, the parties shall be questioned in this regard.

The parties may produce any other relevant witnesses and documents. The Administrative Law Judge shall take any other testimony and evidence necessary to decide the issues.

Now, based on all of the foregoing, it is

ORDERED, that the decisions of the Administrative Law Judge, insofar as they sustained the initial determinations, be, and the same hereby are, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render new decisions, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER