



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: AUGUST 08, 2022

IN THE MATTER OF:

Appeal Board No. 623933

PRESENT: MICHAEL T. GREASON, MEMBER

In Appeal Board Nos. 623932 and 623933, the claimant appeals from the decisions of the Administrative Law Judge filed June 1, 2022, which sustained the initial determinations holding, effective June 28, 2021, that the wages paid to the claimant, a professional employee of an educational institution, cannot be used to establish a valid original claim during the period between two successive academic terms, on the basis that the claimant had reasonable assurance of performing services at the educational institution in the next academic term pursuant to Labor Law § 590 (10); charging the claimant with an

overpayment of Federal Pandemic Unemployment Compensation of \$3,000 recoverable pursuant to Section 2104 (f)(2) of the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020.

At the combined telephone conference hearings before the Administrative Law Judge, testimony was

taken. There were appearances by the claimant and on behalf of the employer.

Our review of the record reveals that the case should be remanded to hold a hearing. Although two hearings have been held, there has been no confrontation between the parties. On appeal, the claimant has contended that he had telephone problems on June 1, 2022 which resulted in him not receiving the calls from Administrative Law Judge, and the Board deems it appropriate to remand the case for confrontation.

The parties are to arrange with the hearing section to read the transcripts of

the hearings held on March 29, 2022 and June 1, 2022 prior to the remanded hearing. The employer is directed to produce Victoria Clayton as a witness, and the employer and the claimant shall each be afforded an opportunity to cross-examine the other on the testimony previously given in this matter. The claimant shall be confronted with and afforded an opportunity to comment on the documents entered into evidence at the June 1, 2022 hearing. Additionally, the parties may produce any other relevant witnesses or documents. The Administrative Law Judge shall take any other testimony or evidence necessary to decide the issues.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further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 a new decision 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