



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: NOVEMBER 03, 2021

IN THE MATTER OF:

Appeal Board No. 615929

PRESENT: JUNE F. O'NEILL, MEMBER

The Department of Labor issued the initial determination holding, effective June 29, 2020, 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). The

claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There were appearances on behalf of the claimant and the employer. By decision filed May 12, 2021 (), the Administrative Law Judge granted the claimant's application to reopen A.L.J. Case No. 021-08156 and sustained the initial determination.

The claimant appealed the Judge's decision insofar as it sustained the initial determination to the Appeal Board. The Board considered the arguments contained in the written statement submitted by the claimant.

Our review of the record reveals that the case should be remanded to hold a further hearing. The record was not sufficiently developed on the determination of reasonable assurance. The parties should have another opportunity to submit additional testimony and other evidence on this issue.

At the further hearing, the claimant will testify further as to whether he had any reason to believe that he would not have as much work in the 2020-2021

school year as he had in the 2019-2020 school year, and if so why. Any documentary evidence in support of such testimony shall be produced at hearing for introduction into the record after an opportunity for objection and comment.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge, insofar as it sustained the initial determination of reasonable assurance be, and the same hereby is, rescinded; and it is further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 on the issue of reasonable assurance, ONLY, 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, on the issue of reasonable assurance, 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.

JUNE F. O'NEILL, MEMBER