



reopening is made before the decision of the appeals examiner is rendered, the appeals examiner shall withhold the decision on the merits of the case. The appeals examiner shall set a hearing at a time and place convenient to the interested parties so that the parties may give reasons to support or oppose such reopening. If the appeals examiner should decide that reopening is not warranted, he shall render such decision along with the decision on the merits of the case. If the appeals examiner should decide that reopening is warranted, then he shall reopen the case for additional taking of evidence. (Underscoring supplied)

In this particular case, the claimant's request that the Appeals Examiner's hearing be reopened was, for all intents and purposes, received prior to the examiner's decision being rendered. Pursuant to the interstate agreement among all of the states, the Tennessee Department of Employment Security was acting as an agent for the Virginia Employment Commission when the claimant appeared in the Elizabethton local office and filed his request for a reopening. As a practical matter, this case is no different from those where a party makes a similar request by personally filing it with one of the Virginia Employment Commission's local offices. Receipt of an appeal or request for a reopening by one of those offices is deemed to be receipt by the Commission, even though the Appeals Section or the Office of Commission Appeals may not be aware of that situation until sometime thereafter. (Underscoring supplied)

It is manifestly clear in such cases that the Virginia Employment Commission does not have any control over how promptly another employment security agency might forward such filings. Furthermore, it would be administratively infeasible to expect the Commission to contact an agent state prior to issuing a decision to ascertain whether a request for a reopening had been filed. Nevertheless, the Virginia Unemployment Compensation Act is a remedial statute which must be construed liberally in order to effect its beneficent purposes. If such is true with the statute, then the same interpretation must be applied to the Commission's rules and regulations. Under the facts presented, the case must be remanded to conduct further evidentiary proceedings in accordance with the agency's rules and regulations since the Commission's agent had received the reopening request prior to the issuance of the Appeals Examiner's decision. (Underscoring supplied)

Therefore, the decision of the Appeals Examiner, Decision UI-89-360, mailed January 11, 1990, is hereby vacated. The case is remanded to the Chief Appeals Examiner with instructions to schedule a hearing before an Appeals Examiner, after due notice to the parties, for the purpose of taking evidence and testimony in accordance with the mandate of Regulation VR 300-01-4.2I of the

Rules and Regulations Affecting Unemployment Compensation.  
The evidence taken at the new hearing, together with the exhibits introduced by the Appeals Examiner from the hearing conducted on January 9, 1990, shall comprise the total record upon which a new decision shall be based.

*M. Coleman Walsh, Jr.*  
M. Coleman Walsh, Jr.  
Special Examiner