



determination is to reopen the hearing, then the matter shall be remanded for that purpose. If the Commission decides not to reopen the hearing, the letter requesting the reopening shall be treated as an appeal to the Commission based upon the record as previously established.

In the case of Engh v. United States Instrument Rentals, et al, Commission Decision 25239-C (July 12, 1985), the Commission held:

In order to show good cause to reopen a hearing, the party making such a request must show that he was prevented or prohibited from participating in the hearing by some cause which was beyond his control, and that, in the face of such a problem, he acted in a reasonably prudent manner to preserve his right to participate in future proceedings.

The evidence presented before the Commission is clear that the claimant did not attend the Appeals Examiner's hearing because she did not receive notice of it. This was clearly a circumstance that was beyond her control. Furthermore, once she discovered that a hearing had been conducted, she acted in a reasonably prudent manner in requesting the Commission to take remedial action. Under these circumstances, the Commission must conclude that good cause to reopen the Appeals Examiner's hearing has been established.

(Underscoring supplied)

Therefore, the decision of the Appeals Examiner, Decision UI-8911580, is hereby vacated. The case is remanded to the presiding Appeals Examiner with instructions to schedule another hearing for the purpose of taking additional evidence and testimony from the claimant and the employer regarding the circumstances surrounding the claimant's separation from work. The evidence taken at the new hearing, together with the evidence obtained at the hearing on December 12, 1989, shall constitute the entire record upon which the Appeals Examiner should base a new decision.



M. Coleman Walsh, Jr.  
Special Examiner