

ADDISON SHOE COMPANY *v.* Charles L.
DANIELS, Director of Labor, State of Arkansas

CA 79-357

600 S.W. 2d 919

Court of Appeals of Arkansas
Opinion delivered June 18, 1980
Released for publication July 8, 1980

EMPLOYMENT SECURITY - INSTRUCTIONS TO EMPLOYER BY BOARD OF REVIEW IN SISTER STATE - MISLEADING INSTRUCTIONS ENTITLE EMPLOYER TO HEARING IN ARKANSAS. - Where an Arkansas employer was led to believe by instructions from the Board of Review of the Employment Security Division in Missouri, where one of the employer's former employees filed an appeal from a decision of the Arkansas Employment Security Division, that the employer need not appear at the hearing in Missouri, but that it would be given an opportunity to appear at a hearing in Arkansas, the case should be remanded to the Arkansas Board of Review so that the employer may present its evidence.

Appeal from Arkansas Board of Review; reversed and remanded.

Charles W. Reynolds, for appellant.

Herr Northcutt, for appellee.

DAVID NEWBERN, Judge. Calvin E. Robinson worked for the appellant at Wynne, Arkansas. He left his employment and moved to Kansas City, Missouri, where he filed for unemployment compensation benefits. A hearing was held by the Missouri Board of Review, and the record of that hearing was forwarded to the Arkansas Board of Review for decision. In giving notice to the appellant, the Missouri Board stated the following:

INSTRUCTIONS TO EMPLOYERS

The claimant has filed an appeal against a decision made by another State concerning his claim for unemployment benefits. This hearing has been scheduled in Missouri in order to give the claimant and any interested Missouri employers an opportunity to present their evidence at a place conveniently located near their residence. The record of this hearing will be sent to the liable State (the State against which the claimant is appealing). *There a tribunal will hold any other hearing that may be necessary and decide the appeal.*

* * *

TO EMPLOYERS OUTSIDE MISSOURI: The hearing held in this State is in addition to any other hearing which may be scheduled on this appeal by the liable State. *Your attendance at this hearing or your failure to attend will not in any way affect your right to receive a notice of hearing in the liable State and to appear at such hearing.* (emphasis supplied).

Although we find no statutory provision requiring that a further hearing be held in Arkansas at which the appellant may present evidence, our opinion is that administrative due process requires that the appellant have that opportunity. Even if it be said that the appellant could have appeared at the Missouri hearing of which it had notice, we believe this

appellant was misled into assuming it would have an opportunity to present its evidence later.

The appellee agrees the case should be remanded to the Arkansas Board of Review so that the appellant may present its evidence.

Reversed and remanded.
