

DIVISION OF EMPLOYMENT SECURITY
NC DEPARTMENT OF COMMERCE

PRECEDENT DECISION NO. 17

IN RE DRAPER

(Adopted October 11, 1984)

This matter has come on for consideration by the undersigned upon the employer's appeal-from the decision rendered by the Appeals Referee. The entire record and file having been considered carefully, the undersigned is of the opinion that the decision of the Appeals Referee should be vacated, and the matter remanded for further hearing.

At the appeals hearing, both witnesses for the appellant were not allowed in the room at the same time when the hearing was being conducted due to a lack of physical space. Its legally qualified representative, however, was in the hearing room at all times when the hearing was being conducted. Although sequestration of witnesses upon motion can be proper, there was no such motion herein, and the limitation on the number of witnesses present in the hearing room was due solely to a lack of space. One potential problem of such space limitation is illustrated by the claimant's ex parte reference to one of the appellant's witnesses as a "big liar" while that witness was being called to the hearing room by the appellant's legally qualified representative. (Transcript, p. 3)

It is the policy of the Commission that suitable and adequate space will be provided to conduct all appeals hearings. If any Appeals Referee is unable at the time and place scheduled to provide such space, the matter shall be continued until suitable and adequate space can be provided.

It is now, therefore, ordered, adjudged and decreed that the decision of the Appeals Referee is vacated and remanded for a new hearing and decision. It is further ordered that suitable and adequate space be provided for the hearing.