

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**KERIANNE K BRITTON**

Claimant

and

**ALLEN MEMORIAL HOSPITAL**

Employer

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**HEARING NUMBER: 16B-UI-05811**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 96.5-2-A, 24.32-7

**DECISION**

**UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE**

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board, one member dissenting, finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

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Ashley R. Koopmans

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James M. Strohman

**DISSENTING OPINION OF KIM D. SCHMETT:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. The record establishes that the Employer has an attendance policy that specifically provides for how the Claimant could have any absences due to illness for her or her son excused. I would find that the Claimant was terminated for absences due to attending her son, who had threatened suicide. The Employer could have potentially excused these absences had the Claimant complied with their attendance policy by obtaining FMLA coverage for her son. The Claimant refused to obtain such coverage because her husband's religion does not consider the son's condition medical, and instead sought religious treatment. I consider an absence for religious reasons to be *not* an absence for health reasons. Such an absence in this instance is likened to be child care issues, which are considered personal reasons that are not excusable under Iowa law for the purpose of unemployment compensation. "[A]bsenteeism arising from matters of **purely personal responsibilities** such as **child care and transportation**" are not excused. *Harlan v. Iowa Department of Job Service*, 350 N.W.2d 192 (Iowa 1984) (late bus) (emphasis added); see *Spragg v. Becker-Underwood, Inc.* 672 N.W.2d 333, 2003 WL 22339237 (Iowa App. 2003) (In case of disqualification for absenteeism the Court finds that "under Iowa Code section 96.5(2), 'Discharge for Misconduct,' there are no exceptions allowed for 'compelling personal reasons' and we cannot read an exception into the statute"). See also, *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984) wherein the court found unexcused 'personal problems or predicaments other than sickness or injury, which included oversleeping, delays caused by tardy babysitters, care trouble, and no excuse.' For these reasons, I would deny benefits until such time she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. See, Iowa Code section 96.5(2)"a".

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Kim D. Schmett

AMG/fnv