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

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TAMMY FREEMAN

HEARING NUMBER: 08B-UI-11158

Claimant,

.

and :

EMPLOYMENT APPEAL BOARD DECISION

OZARK AUTOMOTIVE DISTRIBUTORS :

INC

Employer.

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: 96.4-3

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member concurring, reviewed the entire record. The Appeal Board 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.

Elizabeth L. Seiser	
Mary Ann Spicer	

Page 2 08B-UI-11158

CONCURRING OPINION OF JOHN A. PENO:

I agree with my fellow board members that the administrative law judge's decision should be affirmed; however, I would comment that I do not agree that the claimant is not able and available for work until she can return to work without restrictions. The claimant only needs to prove that she is "... physically able and available for work, not necessarily in her customary occupation, but in some reasonably suitable, comparable, gainful full-time endeavor that is generally available in the labor market..." See, 871 IAC 24.22(1)" b."

John A. Peno	

AMG/ss