

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

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JANET G SHIVERS-SCOTT	:	
	:	
Claimant,	:	HEARING NUMBER: 07B-UI-08223
	:	
and	:	
	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
DAVENPORT COMMUNITY SCHOOL	:	
DISTRICT	:	
	:	
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(5)**

**DECISION**

**UNEMPLOYMENT BENEFITS ARE DENIED**

The claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member dissenting, 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**.

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Elizabeth L. Seiser

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Mary Ann Spicer

AMG/fnv

**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 the claimant was between academic years, and had reasonable assurance of continued work from the school district, which ordinarily would render her ineligible for benefits during that time frame. However, her subsequent layoff from the nonacademic employer (City of Davenport) was a *qualifying* event.

871 IAC 24.1(113), "a" which provides:

*Separations.* All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. *Layoffs.* A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

Thus, she became eligible for benefits only as to those wages earned outside the school system for that summer. The wage credits earned from Davenport Community School District should not have been calculated to determine her benefit amount, which resulted in the overpayment.

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John A. Peno

AMG/fnv