BEFORE THE EMPLOYMENT APPEAL BOARD

Lucas State Office Building Fourth floor Des Moines, Iowa 50319

•	
•	

JEREMY P WEIGEL

HEARING NUMBER: 16B-UI-05949

Claimant

.

and

EMPLOYMENT APPEAL BOARD DECISION

ADVANCE SERVICES 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: 96.5-2-A

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant 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**.

Kim D. Schmett	 	 	
Kim D. Schmett			

DISSENTING OPINION OF ASHLEY R. KOOPMANS:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the
administrative law judge's decision. I would find that the Claimant properly reported that final absence that
was due to his girlfriend's illness, which resulted in her being in the ER. I would also note that even though
the Claimant reached his allotted points, exceeding the allotted number of points in a no-fault attendance
policy is not dispositive of misconduct. The court in Cosper v. Iowa Department of Job Service, 321
N.W.2d 6 (Iowa 1982) held that absences due to illness, which are properly reported, are excused and not
misconduct. See also, Gaborit v. Employment Appeal Board, 734 N.W.2d 554 (Iowa App. 2007) wherein
the court held an absence can be excused for purposes of unemployment insurance eligibility even if the
employer was fully within its rights to assess points or impose discipline up to or including discharge for the
absence under its attendance policy. For this reason, I would allow benefits provided the Claimant is
otherwise eligible.

Ashley R. Koopmans	

A portion of the Claimant's appeal to the Employment Appeal Board consisted of additional evidence which was not contained in the administrative file and which was not submitted to the administrative law judge. While the appeal and additional evidence were reviewed, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

Kim D. Schmett
Ashley R. Koopmans
James M. Strohman

AMG/fnv