



**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.

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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.

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Kim D. Schmett

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Ashley R. Koopmans

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James M. Strohman

AMG/fnv