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

JACK D OLSON

Claimant,

and

BRYCON CORP

Employer.

HEARING NUMBER: 07B-UI-09877

EMPLOYMENT APPEAL BOARD
DECISION

N O T I C E

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: 96.5-1

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE DENIED

The 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

DISSENTING OPINION OF JOHN A. PENO:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The claimant was on a medical leave of absence. When he returned, the employer cut his pay and job responsibilities, which the employer admitted at the hearing. The claimant was a long-term employee having worked 32 years for the employer without any problems. As a result of these cuts, however, the claimant filed a civil rights claim against the employer. Renee Bryngelson, who was either the president or the vice president of the company, commented to the claimant, " … so you think Kenny f-cked you over, huh?" (Tr. 8)

After filing the civil rights claim, the employer treated the claimant differently, which the employer admitted, stating that his attorney advised him to only discuss business with the claimant. This caused much stress on the claimant who began treatment for depression. Although he didn't specifically tell the employer of his depression, he provided the employer with Internet information on his condition.

It was Ms. Bryngelson's comment combined with all the aforementioned occurrences within the last five months of the claimant's employment that caused him to quit. Based on this record, I would conclude that the claimant voluntarily quit his employment due to detrimental and intolerable working conditions that were directly attributable to the employer. 871 IAC 24.26(5) provides a quit is with good cause attributable to the employer when, "The claimant left due to intolerable or detrimental working conditions." For this reason, I would conclude benefits should be allowed provided he is otherwise eligible. See, also Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2005) where the court held that the notice of intention to quit set forth in Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993) does not apply to quits involving detrimental and intolerable working conditions. The Hy-Vee case also overturned Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa App. 1996) involving quits due to unsafe working conditions.

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John A. Peno

AMG/kk