

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

DEHKONTEE B TARYON	:	
	:	
Claimant,	:	HEARING NUMBER: 13B-UI-00757
	:	
and	:	
	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
MARSDEN BLDG MAINTENANCE	:	
	:	
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: 96.5-1, 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 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**.

Monique F. Kuester

Cloyd (Robby) Robinson

DISSENTING OPINION OF JOHN A. PENO:

I respectfully dissent from the decision of the Employment Appeal Board; I would remand this matter based on what I consider to be a language barrier that precluded the claimant from fully availing herself of her due process right. It is clear that English is not the claimant's first language. I found her barely proficient in speaking English, which impacted her ability to fully present her case. At one point, the claimant attempted to put her witness, "Alice Kello," on the phone to assist her, but the administrative law judge disallowed the claimant's attempt to obtain assistance in transcending this language barrier. There is no question that due process principles apply in the context of hearings for persons seeking unemployment benefits. Silva v. Employment Appeal Board, 547 N.W.2d 232 (Iowa App. 1996). Two of the benchmarks of due process are adequate notice and meaningful opportunity to be heard. Iowa courts have held that due process requires "the opportunity to be heard at a meaningful time and a meaningful manner." Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985). While this claimant may have received proper notice, she did not have an opportunity to be heard in a meaningful manner without the use of an interpreter. For this reason, I would remand this matter for new hearing before an administrative law judge, which includes the use of an interpreter.

John A. Peno

AMG/fnv