BEFORE THE EMPLOYMENT APPEAL BOARD

Lucas State Office Building Fourth floor Des Moines, Iowa 50319

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ROBERT A YARDLEY

HEARING NUMBER: 11B-UI-08677

Claimant,

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and

EMPLOYMENT APPEAL BOARD DECISION

CARGILL MEAT SOLUTIONS CORP

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, 96.6-2

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	

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 testified that according to the employer's point system attendance policy, an accumulation of 14 points results in automatic termination. The Claimant accumulated only 7 points as a result of a few absences due to illness and two prior tardies. The final act involved tardiness due to oversleeping because his electric alarm clock didn't sound off due to a storm that knocked out his electricity. The employer failed to participate in the hearing and therefore provided no evidence to refute the Claimant's firsthand testimony. For this reason, I would attribute more weight to the Claimant's testimony that he had only 7 points, which shouldn't have caused his termination. Benefits should be allowed provided the Claimant is otherwise eligible.

John A. Peno

AMG/fnv