

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

CARRIE L KRAKLIO

Claimant,

and

FARMER'S DAUGHTER'S MARKET

Employer.

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HEARING NUMBER: 10B-UI-19525

**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 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

Elizabeth L. Seiser

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 record establishes that the claimant believed that she was discharged. The claimant was told to leave because Ms. Goodlove had lost all respect for the claimant. When the claimant asked if she could come back that same evening to speak with Ms. Goodlove, the employer told her 'don't even bother'. A reasonable person would believe that she was terminated. After the claimant believed she was fired, the claimant wrote a letter to Ms. Goodlove's parents. (Claimant's Exhibit #1)

At this point, things get confusing. The employer testified that the claimant was not fired. Yet, Ms. Goodlove also stated "I told her the only way she was coming back, that I would hire her back on a probationary period." (Tr. 20, lines 7-9) Clearly, this testimony corroborates the claimant's belief that she had been terminated. The employer's telling the claimant that she would call the claimant at 7:00 a.m., Monday morning let her know if she could come back to work further corroborates that the claimant was separated from this employment. Because the employer stated that she would not have the claimant back unless she agreed to a 30-day probationary period, I would conclude that the claimant had been discharged and misconduct was not established. For this reason, I would allow benefits provided she is otherwise eligible.

John A. Peno

AMG/ss