

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

BRUCE A KAMP

Claimant,

and

KASTIM CORPORATION

Employer.

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HEARING NUMBER: 13B-UI-10933

**EMPLOYMENT APPEAL BOARD
DECISION**

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: 96.3-5

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board, one member dissenting, finds the administrative law judge's decision is correct. With the following modification, 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** with the following **MODIFICATION**:

The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law, second paragraph should be stricken and replaced as follows:

The Claimant did not have an established benefit year until the week of September 8, which is the date he actually filed for unemployment benefits. Thus, the Claimant is not disqualified from receiving benefits for declining the employer's offer to work at another location when the Algona restaurant was closed for three to four months. However, there is nothing in the record to establish that the Claimant was actively and earnestly seeking employment during this time. For this reason, the Board shall remand this matter to the Iowa Workforce Development Center, Claims Section, for a determination as to whether he was looking for other work within the meaning of 871 IAC 24.22(3), which provides in relevant part:

Earnestly and actively seeking work. Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work. *It is essential that the individual personally and diligently search for work.* It is difficult to establish definite criteria for defining the words earnestly and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. *The department expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work. (Emphasis added.)*

Monique F. Kuester

Cloyd (Robby) Robinson

AMG/fnv