

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

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**KATHLEEN THORNE**

Claimant

and

**ADVANCE SERVICES INC**

Employer

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**HEARING NUMBER: 16B-UI-09052**

**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:** 96.5-2-A, 24.32-7

**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. 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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Ashley R. Koopmans

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James M. Strohman

**DISSENTING OPINION OF KIM D. SCHMETT:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. According to the Claimant's own testimony, her doctor told her that her restrictions were so low, she couldn't do anything. For this reason, I would find that the Claimant was not able and available for work and should be disqualified for benefits.

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Kim D. Schmett

The Employment Appeal Board would correct the administrative law judge's Findings of Fact, at p. 2, second full sentence to read as follows:

When the claimant called off on **June** 17, 2016, she again spoke to Cindy Kane...

The Board would also correct the fifth completed sentence to read as follows:

Ms. Kane also reportedly asked **the Claimant** to sign a form stating she was declining work until she visited her doctor again on June 21, 2016.

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Kim D. Schmett

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Ashley R. Koopmans

AMG/fnv

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James M. Strohman