

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

ERIN HENDRICKS	:	
	:	
Claimant,	:	HEARING NUMBER: 08B-UI-07711
	:	
and	:	
	:	EMPLOYMENT APPEAL BOARD
AUTOZONERS LLC	:	DECISION
	:	
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

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, two members separately concurring, 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**.

John A. Peno

CONCURRING OPINION OF ELIZABETH L. SEISER:

I agree with my fellow board members that the administrative law judge's decision should be affirmed; however, I would also note the employer's statement in their appeal, "Apparently, the staff switched personnel *and did pass the message* along where Mr. Zimmerman would be to receive the phone call. He tried calling back to explain but did not get the approval to participate...." Should there be a typographical error in this statement, then the employer may file for a rehearing of this matter.

Elizabeth L. Seiser

AMG/fnv

CONCURRING OPINION OF MONIQUE F. KUESTER:

I agree with my fellow board members that the administrative law judge's decision should be affirmed; however, I would note that the employer established legitimate business reasons for discharging the claimant. But, the facts, as presented during the hearing, do not constitute a denial of unemployment insurance benefits. The employer failed to participate in the hearing, which left the claimant's testimony as the best evidence in the record. Since the burden of proof is on the employer to establish disqualifying misconduct, I would conclude that the employer has failed to satisfy that burden.

Monique F. Kuester

AMG/fnv

The employer has requested this matter be remanded for a new hearing. The Employment Appeal Board finds the applicant did not follow the instructions on the notice of hearing. Therefore, good cause has not been established to remand this matter. The remand request is **DENIED**.

John A. Peno

Elizabeth L. Seiser

Monique F. Kuester

AMG/fnv