

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

GERARDO ITZUL

Claimant,

and

WELLS ENTERPRISES INC

Employer.

:
:
:
:
:
:
:
:
:
:
:

HEARING NUMBER: 15B-UI-11761

**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, 96.3-7

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**.

Kim D. Schmett

Ashley R. Koopmans

DISSENTING OPINION OF JAMES M. STROHMAN:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. The record clearly establishes that the Claimant applied for his renewal on July 14, 2014, well in advance of his September deadline and prior to the Employer's notification on July 23, 2014. The Claimant acted in good faith to maintain compliance with his I-9 documentation; however, due to circumstances (backlog) beyond his control, his renewal was not timely processed. I would conclude that while the Employer may have compelling business reasons to terminate the Claimant, conduct that might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. *Budding v. Iowa Department of Job Service*, 337 N.W.2d 219 (Iowa App. 1983); see also, *Breithaupt v. Employment Appeal Board*, 453 N. W. 2d 532, 535 (Iowa App. 1990). Based on this record, I would allow benefits provided the Claimant is otherwise eligible.

James M. Strohman

AMG/ss