

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

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SCOTT STEWART

Claimant,

and

TEMPS NOW HEARTLAND LLC

Employer.

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HEARING NUMBER: 09B-UI-10802

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: 96.5-1-j

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**.

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Elizabeth L. Seiser

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Monique F. Kuester

**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 claimant last worked for the employer on June 26<sup>th</sup>, 2009. He was scheduled to work on July 4<sup>th</sup> for which he was a no call/no show. The last contact he had with the employer was on July 6<sup>th</sup> when he was issued a counseling for missing work on July 4<sup>th</sup> (his brother was in a car accident) and the procedure for reporting absences generally. The claimant reported for work on July 6<sup>th</sup>, but the employer made no offer of work at that time. There was no contact for 37 days. For the purposes of unemployment compensation law, the claimant does not have to report weekly to the employer. For this reason, I would conclude that the claimant should be allowed benefits provided he is otherwise eligible.

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John A. Peno

AMG/ss

A portion of the claimant's appeal to the Employment Appeal Board consisted of additional evidence which was not contained in the administrative file and which was not submitted to the administrative law judge. While the appeal and additional evidence (documents) were reviewed, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

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John A. Peno

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Elizabeth L. Seiser

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Monique F. Kuester

AMG/ss