

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

MICHELLE L FITZGERALD

Claimant

and

TEAM STAFFING SOLUTIONS INC

Employer

HEARING NUMBER: 17BUI-04006

**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

The Employer appealed this case to the Employment Appeal Board. All members of the Employment Appeal Board reviewed the entire record. A majority of 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 Board would correct the administrative law judge's Reasoning and Conclusions of Law, first sentence to reflect that the Claimant did **not** quit her employment. In addition, the majority Board members would also **REMAND** this matter back to the administrative law judge for the sole purpose of determining whether the Claimant is able and available for work.

Ashley R. Koopmans

DISSENTING OPINION OF KIM D. SCHMETT:

I respectfully dissent from the decision of the Employment Appeal Board. I would remand this matter to reopen the record to obtain additional testimony, as I find that the Claimant has neither been terminated nor voluntarily quit her employment. Specifically, additional testimony should be elicited regarding the following issues:

- 1) Whether the Claimant returned to offer her services to the Employer;
- 2) Whether the Employer had employment within the Claimant's restrictions;
- 3) And whether the Claimant is able and available for work.

Kim D. Schmett

AMG/fnv