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

JENNIFER SWILSON	: : : LIEADING NI IMPED: 00D I II 0/200
Claimant,	: HEARING NUMBER: 08B-UI-04298 :
and	: EMPLOYMENT APPEAL BOARD : DECISION
GENESIS HEALTH SYSTEM	: 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, 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.

John A. Peno	
Elizabeth L. Seiser	

# AMG/fnv

### DISSENTING OPINION OF MONIQUE F. KUESTER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. I agree that the employer should have provided firsthand witnesses and not relied on solely on hearsay and documentation. However, the employer's evidence, as provided, was sufficient to establish that the claimant was discharged for misconduct. Furthermore, the claimant received ample warning and should have known that her job was in jeopardy, i.e., that if she failed to change her behavior, she would be terminated. For this reason, I would deny benefits.

Monique F. Kuester	

AMG/fnv