

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

GREGORY L BARBER

Claimant,

and

CONTRACT TRANSPORT INC

Employer.

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HEARING NUMBER: 09B-UI-06623

EMPLOYMENT APPEAL BOARD
DECISION

N O T I C E

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

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE DENIED

The claimant 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 concurring, 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**:

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The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law to include a dual analysis. This case could be analyzed as a discharge for which the employer has satisfied their burden of proving disqualifying misconduct.

John A. Peno

Elizabeth L. Seiser

AMG/ss

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 not modify the decision in any manner.

Monique F. Kuester

AMG/ss