

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

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LINDA P SCHOENBERGER

Claimant,

and

BOSTON WINDOW CLEANING INC

Employer.

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**HEARING NUMBER: 10B-UI-03675**

**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: 96.5-2A**

**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**.

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John A. Peno

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Elizabeth L. Seiser

**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. The claimant's situation evoked much sympathy in that she had to deal with multiple issues. However, the employer has the right to expect its employees to report to work. It appears that the employer allowed her time off for bereavement, as FMLA was not an option since the record establishes that the claimant was ineligible. The claimant testified that she had a vacation surplus; however, it wasn't clear why she didn't request to use that time. In any event, the claimant never sought treatment for her mental health issues and I disagree with the administrative law judge that the final absences were excused. I would conclude that the employer satisfied their burden of proving disqualifying misconduct.

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Monique F. Kuester

AMG/fnv