

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

JAMES R HORNE

Claimant

and

NID INC

Employer

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HEARING NUMBER: 22B-UI-06302

**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

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 reviewed the entire record. The Appeal Board, one member dissenting, finds the administrative law judge's decision is correct. The administrative law judge's Findings Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

In addition, the majority Board members would remand this matter to the Iowa Workforce Development, Benefits Bureau, to determine whether the Claimant is able and available for work, and whether the Claimant has refused a suitable offer of work.

James M. Strohman

Ashley R. Koopmans

DISSENTING OPINION OF MYRON R. LINN:

After a complete review with audio testimony, I respectfully disagree with the majority decision affirming the eligibility of unemployment compensation benefits. However, I would concur with the majority's decision to remand this matter for further consideration on the issues listed above.

As to my dissent, I would find Employer was a motor transport business for whom the Claimant had been working for a couple of years as the dispatch/fleet manager. The Claimant had physical limitations due to nonwork-related medical matters, including colorectal cancer which led to abdominal pain and colorectal issues. Furthermore, the Claimant had poor vision resulting from cataracts which required magnifying technology to see and accurately complete his work. The Employer approved the Claimant's leave of absence under FMLA to address his medical needs. In the meantime, the Employer still needed the continuous work of a dispatch/fleet manager.

An Employer must have reasonable authority to manage work assignments within the scope of its processes. The Claimant testified that he made periodic mistakes in the dispatch/fleet role, so the Employer assigned the Claimant to a different role without a reduction in wages, without changes in his work schedule, and with work aligned within the physical capabilities of the Claimant. The Employer was quite generous and flexible in providing work within the Claimant's physical limitations.

The Claimant clearly protested this change and claimed that he couldn't do the work that the Employer had requested of him even though it was very minor physically. He wanted to be back in the dispatch/fleet manager role and apparently would not accept anything otherwise. The Employer needed a reliable and accurate dispatch/fleet manager, and the Employer reasonably made the change in that role. As a result, the Claimant voluntarily quit for reasons I conclude were not attributable to the Employer.

For an employee to "lock in" to a job assignment and refuse to accept necessary changes in roles places handcuffs on management to make reasonable decisions on job assignments. It is my opinion that the Administrative Law Judge decision should be reversed. Benefits should be denied until such time the Claimant has worked in and was paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. See, Iowa Code section 96.5(1)"g".

Myron R. Linn

AMG/fnv