

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

BIONG D AROP

Claimant,

and

BURKE MARKETING CORPORATION

Employer.

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HEARING NUMBER: 10B-UI-08416

**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, 871 IAC 26

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

STATEMENT OF THE CASE:

The issue of timeliness was raised when the claimant filed an appeal faxed on August 16, 2010, three days beyond the statutory deadline of August 13, 2010. The reason for the delay was because the claimant did not receive the Notice of Decision. For this reason, we find good cause has been established for the late appeal, and the board shall consider it to be timely.

The claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board 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 Employment Appeal Board would modify the administrative law judge's Findings of Fact to include the following:

The claimant requested a leave of absence to go home to Sudan, which the employer denied him the time off. The claimant was subsequently absent from work (March 24th-March 29th). (Tr. 3). The employer did not hear from the claimant, again, until May 5th.

John A. Peno

Monique F. Kuester

Elizabeth L. Seiser

AMG/kk