

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

BONNIE J LAUHLAN

Claimant,

and

WOMENS SPECIALTY CARE

Employer.

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HEARING NUMBER: 13B-UI-07802

**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 DENIED

The Claimant 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**.

Monique F. Kuester

Cloyd (Robby) Robinson

DISSENTING OPINION OF JOHN A. PENO:

I respectfully dissent from the decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge in its entirety. The Claimant had medical issues, which the Employer did not contest, and requested a leave of absence for 4 months. The Claimant presented the Employer with a doctor's statement excusing her from work until August 13, 2013. Any reasonable person would construe the Employer's letter of April 24, 2013 as a separation letter in the event the Claimant was unable to return on May 1, 2013, and without restrictions. (See Exhibit 1) Based on this record, I would consider her separation as a quit in lieu of discharge.

Additionally, the Claimant is not required to return to this Employer under these circumstances with a medical release. A claimant who is terminated prior to a return from a leave of absence is not obligated to return to the employer to offer services after the expiration of the leave of absence. The rationale being that the claimant no longer has an employment relationship to which the claimant can return. Porazil v. Jackman Corporation, August 27, 2003, Court of Appeals Unpublished Case No. 3-408/02-1583. Thus, benefits should be allowed provided the Claimant is otherwise eligible.

Lastly, I agree with the administrative law judge that this matter should also be remanded to the Iowa Workforce Development Center, Claims Section, for the determination of the able and available issue.

John A. Peno

The Employment Appeal Board would comment that the Claimant should take her medical documentation to the Iowa Workforce Development Center, Claims Section, for further consideration.

John A. Peno

Monique F. Kuester

Cloyd (Robby) Robinson