

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

THOMAS M BOLTON

Claimant,

and

ALDI INC

Employer.

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HEARING NUMBER: 14B-UI-12195

**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: 96.5-2-A

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Employer appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. The Appeal Board, one member concurring, 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**.

Cloyd (Robby) Robinson

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 also comment that the only evidence in the record was that of the Claimant. Had the Employer participated in the hearing, and provided evidence to support their side, the outcome of this case may have been different. For future reference, it behooves the Employer to follow through with the instructions on the Notice of Hearing so as to present the best case possible before the administrative law judge.

Additionally, I would comment for the Employer's future reference that the Notice of Hearing, specifically, instructs the parties as follows:

IMMEDIATELY CALL WHEN YOU RECEIVE THIS NOTICE TO PARTICIPATE IN A TELEPHONE HEARING...THE JUDGE WILL NOT CALL YOU ON THE DAY OF THE HEARING IF YOU HAVE NOT CALLED THE APPEALS BUREAU IN DES MOINES, IA, AS INSTRUCTED BELOW...

The document the Employer faxed, which contained the Employer's contact information, did not comply with the Appeals Bureau's notice instructions.

Monique F. Kuester

A portion of the Employer's appeal to the Employment Appeal Board consisted of additional evidence which was not contained in the administrative file and which was not submitted to the administrative law judge. While the appeal and additional evidence were reviewed, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

The Employer has requested this matter be remanded for a new hearing. The Employment Appeal Board finds the applicant did not follow the instructions on the notice of hearing. Therefore, good cause has not been established to remand this matter. The remand request is **DENIED**.

Monique F. Kuester

Cloyd (Robby) Robinson

AMG/fnv