

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

KAREN R IHNEN

Claimant,

and

SAYDEL COMMUNITY SCHOOL
DISTRICT

Employer.

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HEARING NUMBER: 07B-UI-08283

EMPLOYMENT APPEAL BOARD
DECISION

N O T I C E

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(3)a

D E C I S I O N

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**.

Elizabeth L. Seiser

John A. Peno

AMG/fnv

DISSENTING OPINION OF MARY ANN SPICER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. Ms. Ihnen testified that the school district contacted her with an offer of employment as a teacher's associate, (Tr. 6, lines 21-24) which corroborated the employer's statement. (Tr.5, lines 5-31) This was a job in which she was initially hired. Ms. Ihnen also testified that she did not accept the job because of pay, which I find questionable. What did not come out in the testimony was the number of years the claimant had worked for the district, the number of hours the teacher's associate positions worked, as well as whether the bus driver position included benefits as part of their \$15.94 per hour. I find the testimony as to how long the claimant had worked to be crucial in that 9 cents was added to the \$11.73 per hour for every year worked, which could have brought the pay near the salary range depending on the total package offered above and beyond for teacher's associates. (Tr. 8, lines 1-18)

At issue is whether the employer made a bona fide offer of employment to the claimant. The claimant argued that there was no bonafide offer; yet, the employer refutes this argument indicating that there was an offer to all bus drivers wherein no application or interview was necessary. Both parties disagree with the information presented at hearing on this issue and there was no attempt to clarify the information. It is clear that the superintendent, who could offer firsthand testimony, needed to be present to ascertain whether there was a bona fide offer made to all bus drivers. Additionally, the superintendent was unavailable to testify as to whether, in fact, Ms. Ihnen was offered a teacher's associate job.

It is this board member's opinion that the record lacks substantial evidence to support that the claimant had good cause to refuse the employer's offer. As such, I would conclude that the claimant failed to satisfy her burden of proving her eligibility. See, Norland v. Iowa Department of Job Service, 412 N.W. 904 (Iowa 1987) Thus, I would reverse the administrative law judge and deny benefits.

Mary Ann Spicer

AMG/fnv

The claimant submitted a written argument to the Employment Appeal Board. The Employment Appeal Board reviewed the argument. A portion of the argument consisted of additional evidence which was not contained in the administrative file and which was not submitted to the administrative law judge. While the argument and additional evidence (documents) were considered, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

Elizabeth L. Seiser

Mary Ann Spicer

John A. Peno

fnv