

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

KIMBERLY L SCHAFER

Claimant,

and

HEARTLAND INNS OF AMERICA

Employer.

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HEARING NUMBER: 10B-UI-03986

**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: 96.5-2A

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, 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**.

John A. Peno

Elizabeth L. Seiser

DISSENTING OPINION OF MONIQUE F. KUESTER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. After careful review, I would find the employer's testimony more credible than the claimant's testimony. The victim of the harassment said that his delay in reporting the incidents between the claimant and the witness stemmed from the long-term relationship between both parties.

It would benefit the employer to make it an on-going practice to solicit information from all parties involved in situations that could result in termination. However, based on this record, I would find that there was an incident and that a reasonable person would also conclude that the claimant continued to engage in harassing behavior, which constituted disqualifying misconduct.

Monique F. Kuester

AMG/fnv