

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

DEBRA A MORGAN

Claimant,

and

EXCEPTIONAL PERSONS INC

Employer.

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HEARING NUMBER: 13B-UI-02319

**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 quit because she didn't want to work the weekend. The claimant had already missed the prior weekend, even though she had been scheduled for the following week. She generally worked between 160-199 hours in a two week period. However, I find that being expected to work a 7-day workweek after just returning from a medical leave of absence is excessive by any reasonable person's standard.

In the past, she had always had two days off prior to or after working a weekend schedule. Additionally, the claimant had been threatened at work and when she reported the matter to management, nothing was done. The employer also forced her to purchase commercial car insurance in order to transport patients. The employer did not refute most of the claimant's testimony. The fact that the employer, again, scheduled her for the weekend after working long hours was the 'last straw.' In light of all these factors, I would conclude that the claimant was forced to work under detrimental and intolerable working conditions for which she had good cause attributable to the employer to quit. Benefits should be allowed provided the claimant is otherwise eligible.

John A. Peno

A portion of the claimant'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.

John A. Peno

Monique F. Kuester

Cloyd (Robby) Robinson