

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

BRIAN S ANDERSON

Claimant,

and

ASPLUNDH TREE EXPERT CO

Employer.

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HEARING NUMBER: 14B-UI-00333

**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. The members of the Employment Appeal Board, one member concurring, 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**.

Cloyd (Robby) Robinson

CONCURRING OPINION OF MONIQUE F. KUESTER:

I agree with my fellow board member that the administrative law judge's decision should be affirmed, and the issue of availability remanded to Claims. However, I would also comment that the Employer would be well-advised to familiarize itself with the applicable laws on drug testing in Iowa, in particular Iowa Code

§730.5. In his decision the Administrative Law Judge detailed some of the more commonly seen issues with compliance, although these are by no means all of them. The code is available at

<https://www.legis.iowa.gov/docs/ico/code/730.5.pdf>.

Monique F. Kuester

The Employment Appeal Board also remands this matter to the Iowa Workforce Development Center, Claims Section, for a determination of the issue of whether or not the claimant as able and available for work during any weeks the Claimant was on an agreed leave of absence from the Employer.

Monique F. Kuester

Cloyd (Robby) Robinson

RRA/fnv