

DISSENTING OPINION OF KIM D. SCHMETT:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. I would find that the Claimant had received prior warnings about his performance. The final incident involved his failure to comply with the Employer's reasonable directive to report to work on Saturday to repair an auger that he incorrectly performed work on, which I would conclude was insubordinate. For this reason, I would deny benefits until such time he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. See, Iowa Code section 96.5(2)"a".

Kim D. Schmett

A portion of the Employer's appeal and written argument 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 written argument containing the 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.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv