

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

LISA REXROAD

Claimant

and

HEARTLAND EMPLOYMENT SVCS LLC

Employer

:
:
:
:
:
:
:
:
:

HEARING NUMBER: 16B-UI-05862

**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: 96.4-3, 24.23-6

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, 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** with the following **MODIFICATION**:

The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law to include the following as supportive legal analysis:

We would note that the circumstances described in this case could also be considered a period of voluntary unemployment for which the Claimant would not be eligible to receive unemployment benefits. *See*, 871 IAC 24.22(2)"j." *See also, Amana Refrigeration, Inc. v. Iowa Department of Job Service*, 334 N.W.2d 316 (Iowa App. 1983), wherein plant workers were also given the option of working either one, two, or all three weeks that the plant annually shutdown. Several workers chose to work various weeks, while some chose not to work at all, even though some work was available. When employees filed for unemployment benefits, Amana appealed the allowance of benefits for those employees who opted not to work at all. The court reversed the agency's decision, opining that the claimants had to be able and available for work for

their own employer in order to qualify for benefits. The court went on to reason that employees in such a situation are not ‘unemployed through no fault of their own,’ which is the underlying basis for unemployment compensation law, i.e., “...for the compulsory setting aside of unemployment reserves to be used to benefits...” persons who’ve lost their employment.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv