

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

BECCA ALBERT

Claimant

and

AUGUSTANA SENIOR DEVELOPMENT II

Employer

: **HEARING NUMBER: 22B-UI-02145**
:
:
: **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

The Claimant appealed this case to the Employment Appeal Board. All members of the Employment Appeal Board reviewed the entire record. A majority of the Appeal Board, one member dissenting, 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 majority Board member would modify the Reasoning and Conclusions of Law as follows:

We would find the Claimant's resignation was effective December 16th; however, the Employer terminated her prior to her quit date. For this reason, we would allow benefits for the two weeks between December 2nd and her resignation date.

James M. Strohman

Myron R. Linn

DISSENTING OPINION OF ASHLEY R. KOOPMANS:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. I find the Claimant's testimony credible that she was merely informing her supervisor that she "... was starting to *want* to put her two weeks in..." as she felt like she was being retaliated against and wanted to share her concerns. She had no intention to quit her employment. The court in *Peck v. Employment Appeal Board*, 492 N.W.2d 438 (Iowa App. 1992) held that "[Q]uitting requires an intention to terminate employment accompanied by an overt act carrying out the intent." It is clear from the Claimant's testimony that she was simply venting her frustration about working with a co-worker. She, admittedly, felt better after their discussion and wanted to get back to work. Based on this circumstance, I would find the Claimant not only lacked an intention to sever her employment relationship, she demonstrated *no* act that would corroborate an intention to quit. For this reason, I would find the Employer discharged the Claimant for no disqualifying reason. Accordingly, I would allow benefits provided the Claimant is otherwise eligible.

Ashley R. Koopmans

AMG/sh