

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

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**WILLIAM G SMITH**

Claimant,

and

**US SECURITY ASSOCIATES INC**

Employer.

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**HEARING NUMBER: 10B-UI-01505**

**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: 96.5-2A**

**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 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**.

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John A. Peno

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Elizabeth L. Seiser

**DISSENTING OPINION OF MONIQUE F. KUESTER:**

I respectfully dissent from the majority decision of the Employment Appeal Board. After careful review, I find that the employer's testimony and that of the accompanying witnesses collaborate the employer's claim that there was misconduct by the claimant.

It is clear to me that the claimant failed to perform his job duties. The claimant's representative asserted that the claimant had a medical condition that explained much of his behavior. I find it credible that the employer was unaware that the claimant had this condition, which existed at the time of termination. (Tr. 25, lines 19-34; Tr. 26, lines 1-11) Based solely on the testimony provided near the conclusion of the hearing, I find it perplexing that the claimant wouldn't have brought up the existence of his medical condition at some point when he was being counseled about various other violations leading to his termination.

The claimant had multiple verbal and written warnings that were detailed throughout the transcript. No one disputes that the claimant received an employee handbook (Security Officer Guidebook). (Tr. 7, lines 30-33) Thus, the claimant is attributed to having knowledge of what the employer expected of him. Based on the foregoing, I would conclude that the claimant engaged in behavior that comes within the purview of the legal definition of misconduct. And I would deny benefits.

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Monique F. Kuester

AMG/fnv