

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

---

DAVID P OHL

Claimant,

and

ADECCO USA INC

Employer.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

HEARING NUMBER: 08B-UI-02568

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(3)a**

DECISION

**UNEMPLOYMENT BENEFITS ARE DENIED**

The claimant 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**.

\_\_\_\_\_  
Elizabeth L. Seiser

\_\_\_\_\_  
Monique F. Kuester

AMG/fnv

**DISSENTING OPINION OF JOHN A. PENO:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The record fails to establish that the claimant has not met his search requirements since January 30th, 2008. Rather, the record reveals that the claimant contacted the employer at least six times since that date. (Tr. 14) There is no evidence to support that the employer made any job offers from January 30th through March 5<sup>th</sup>, 2008. The only job offer made was on March 6<sup>th</sup> to which the claimant had good cause to refuse because he had had a plumber at his residence. The claimant accepted the employer's subsequent March 24th offer.

The claimant limited his availability to second and third shifts, which would *not* unduly limit his availability as the administrative law judge so implied, rendering him not able and available for work. Rather, I would conclude that the claimant was reasonably able and available for work since January 30<sup>th</sup>, 2008.

Based on this record, the claimant should be recategorized as a Group 2 claimant as of April 7<sup>th</sup>, 2008, the date of the administrative law judge's decision.

---

John A. Peno

AMG/fnv