

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

---

JOHN D COX	:	
	:	
Claimant,	:	HEARING NUMBER: 08B-UI-04611
	:	
and	:	
	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
IOWA WORKFORCE DEVELOPMENT	:	
	:	
Employer.	:	

**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: 96.3-7**

**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 claimant was discharged for failing to properly report his absences. According to the record, the claimant contacted the employer every day between February 15<sup>th</sup> and March 14<sup>th</sup>. On March 14<sup>th</sup>, the claimant met with a company representative, Virginia Sewing who determined that the claimant might qualify for disability social security. She worked with the claimant to make arrangements with the Social Security Administration for which the employer was aware. (Tr. 23-24) The claimant reasonably believed that after March 14<sup>th</sup>, he was not required to call the employer on a daily basis based on his interaction with Ms. Sewing. At worst, I would conclude that there was a misunderstanding between the claimant and Ms. Sewing. His failure to call in that final absence was poor judgment, which was done in good faith. It did not rise to the legal definition of misconduct. For this reason, I would allow benefits provided he is otherwise eligible.

---

John A. Peno

AMG/fnv