

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

TAYLOR D PRIEST

Claimant,

and

EXPRESS SERVICES INC

Employer.

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HEARING NUMBER: 13B-UI-08541

**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: 96.5-2-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**.

Monique F. Kuester

Cloyd (Robby) Robinson

DISSENTING OPINION OF JOHN A. PENO:

I respectfully dissent from the decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge in its entirety. The record establishes that the Claimant was fired for his actions *after* he was released from the client (McGraw-Hill.) The Claimant provided credible firsthand testimony that he was assaulted by McGraw Hill security when he was attempting to retrieve his personal belongings. The Employer has failed to prove by a preponderance of the evidence that the Claimant's alleged misconduct rose to the legal definition of misconduct such that he should be disqualified for benefits. Based on this record, I would attribute more weight to the Claimant's version of events and allow benefits provided the Claimant is otherwise eligible.

John A. Peno

AMG/fnv