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

JERRY W WAGAMAN

Claimant,

and

LINWELD INC

Employer.

HEARING NUMBER: 09B-UI-11549

EMPLOYMENT APPEAL BOARD
DECISION

N O T I C E

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(7)

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE DENIED

The claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member concurring, 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**.

The employer submitted a written argument to the Employment Appeal Board. The Employment Appeal Board reviewed the argument. A portion of the argument consisted of additional evidence which was not contained in the administrative file and which was not submitted to the administrative law judge. While the argument and additional evidence (documents) were considered, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

A portion of the claimant's appeal to the Employment Appeal Board consisted of additional evidence which was not contained in the administrative file and which was not submitted to the administrative law judge. While the appeal and additional evidence (documents) were reviewed, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

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Elizabeth L. Seiser

AMG/fnv

CONCURRING OPINION OF JOHN A. PENO:

I agree with my fellow board members that the administrative law judge's decision should be affirmed. However, I would comment that in this case, the paid time off (PTO) is given to employees the same as vacation and sick leave would be given in most instances. Thus, as for PTO earned in lieu of previous overtime worked, I would not view it as a offset for unemployment insurance benefits.

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John A. Peno

AMG/fnv