

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

DOUGLAS E ESTRADA

Claimant

and

SILGAN CONTAINERS MFG CORP

Employer

HEARING NUMBER: 17BUI-10751

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: 96.5-2-A

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, 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** with the following **MODIFICATION**:

The Board does not rely on the requirement for providing rehabilitation services as that provision is limited to alcohol results and only for employers of more than 50 employees. The Board cites in support of its decision to exclude the test results from consideration that reasonable suspicion testing under 730.5 includes post-accident tests only if personal injury or property damage exceeding \$1,000 occurs. The record fails to show these conditions have been satisfied and so the record fails to disclose that the request for the test was based on reasonable suspicion within the meaning of Iowa Code §730.5(1)(i)(5).

The Employer has requested this matter be remanded for a new hearing. The Employment Appeal Board finds the applicant did not provide good cause to remand this matter. Therefore, the remand request is **DENIED**.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

RRA/fnv