

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

CRAIG O ROEDEMA

Claimant,

and

EXPRESS SERVICES INC

Employer.

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HEARING NUMBER: 07B-UI-07809

EMPLOYMENT APPEAL BOARD
DECISION AFTER
GRANTED REHEARING

NOTICE

THIS DECISION BECOMES FINAL unless a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

SECTION: 96.5(1)

DECISION

STATEMENT OF THE CASE:

The claimant filed an application for rehearing on the above-listed matter that was granted based on the fact the claimant provided good cause for his nonparticipation in the August 29, 2007 hearing before the administrative law judge. The Board reopened the matter in order to consider the claimant's reason for his nonparticipation. The Board is now ready to issue its decision.

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**.

The claimant has requested this matter be remanded for a new hearing. The Employment Appeal Board finds the applicant did not follow the instructions on the notice of hearing. Therefore, good cause has not been established to remand this matter. The remand request is **DENIED**.

Elizabeth L. Seiser

DISSENTING OPINION OF MARY ANN SPICER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I remand this remand so as to allow the claimant to avail himself of his due process right to an opportunity to be heard. The claimant alleges that he suffered from a panic attack and on the third day of failing to call in his absence, he realized that his job was at stake. However, he was dismissed before he had an opportunity to seek medical care or before he could provide corroborating medical documentation. A reasonable person would accept that due to the claimant's mental state, he was unable to follow through with the employer's call-in procedures. Thus, his inaction was, essentially, *not* voluntary. See, Roberts v. Iowa Department of Job Service, 356 N.W.2d 218 (Iowa 1984), where the court held that a claimant who is unable to report due to hospitalization for mental illness is not misconduct based on the involuntary nature of her action. Based on this reasoning, I would grant a remand to allow the claimant in this case an opportunity to submit evidence on the merits of his case.

Mary Ann Spicer

AMG/fnv