

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

GARY L CORKERY	:	
	:	HEARING NUMBER: 21B-UI-04633
Claimant	:	
	:	
and	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
CITY OF INDEPENDENCE	:	
	:	
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: 96.5-2-A, 96.5-1

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant 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 Employment Appeal Board would modify the administrative law judge's Findings of Fact as follows:

At p. 2, second paragraph, fourth sentence should read, "...The claimant *claimed* he was using his words to "unite" the claimant with the rest of the workers and make him stop his behavior..."

At p. 2, fourth paragraph, second to the last sentence should read, "The claimant *argued* he did so to get him to think."

The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law to include the following as supportive legal analysis:

We do not find the Claimant's testimony credible that he made threatening statements to Weber out of any type of altruistic motivation. Furthermore, Corkery's own admission corroborates the Employer's allegations that his behavior violated company policy, and is not hearsay.

Lastly, we would comment that any expression of opinion by us would be "binding only upon the parties to proceedings brought under this chapter, and is not binding upon any other proceedings or action involving the same facts brought by the same or related parties before the division of labor services, division of workers' compensation, other state agency, arbitrator, court, or judge of this state or the United States." Iowa Code §96.6(4).

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

AMG/fnv