

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

GABRIEL Y MANYIEL

Claimant

and

WELLS ENTERPRISES INC

Employer

:
:
:
:
:
:
:
:
:
:
:

HEARING NUMBER: 19BUI-04934

**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: 96.5-1, 96.5-2-A

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Employer appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. One member concurs, while the other member reverses the administrative law judge's decision as correct. Based on this circumstance, this matter is **AFFIRMED** by operation of law.

486 IAC 3.3(3) provides:

A quorum of two members of the appeal board must be present when any decision is made by the appeal board. Should there be only two members present and those two members cannot agree upon the decision, the case shall be issued as a split decision and the decision of the administrative law judge shall be affirmed by operation of law.

CONCURRING OPINION OF JAMES M. STROHMAN:

I agree with the administrative law judge's decision by affirming the Findings of Fact and Reasoning and Conclusions of Law.

James M. Strohman

DISSENTING OPINION OF KIM D. SCHMETT:

I respectfully dissent from the decision in this matter. I would reverse decision of the administrative law judge, as I would find the reason the Claimant quit was because his shift had been changed. This does not constitute good cause attributable to the Employer.

AMG/fnv

Kim D. Schmett