

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

HERMAN THOMAS

Claimant

and

SHEARERS FOODS BURLINGTON LLC

Employer

HEARING NUMBER: 18BUI-08505

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: 96.5-2A, 24.32-1

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, one member dissenting, 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**.

Kim D. Schmett

Ashley R. Koopmans

DISSENTING OPINION OF JAMES M. STROHMAN:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. I would find an Employer's no fault attendance policy or point system is not dispositive of the determination of a Claimant's eligibility for benefits. Here, had the Claimant simply reported his absences in a different manner, those three absences would have been excused. However, even though this was not the case, I would conclude these absences were not excessive and certainly did not rise to the legal definition of misconduct such that he should be denied benefits. For this reason, I would allow benefits provided the Claimant is otherwise eligible.

James M. Strohman

AMG/fnv