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

THOMAS R SAND	: : : HEARING NUMBER: 08B-UI-07259
Claimant,	:
and	EMPLOYMENT APPEAL BOARD
PARKSOF IOWA LC	:

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

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member concurring, 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.

John A. Peno

Elizabeth L. Seiser

CONCURRING OPINION OF MONIQUE F. KUESTER:

I agree with my fellow board members that the administrative law judge's decision should be affirmed; however, I would note that the employer established legitimate business reasons for discharging the claimant. However the facts as presented during the testimony do not constitute a denial of unemployment insurance. See, <u>Budding v. Iowa Department of Job Service</u>, 337 N.W.2d 219 (Iowa App. 1983).

It is clear that the claimant had excessive absences and tardies. But, the employer failed to provide evidence of the 'repeated written warnings concerning punctuality and attendance along with a written warning for disrespect of company equipment," during the hearing. That pertinent information would have been beneficial in my decision process. Absent this evidence, I must join in affirming the administrative law judge's ruling.

Monique F. Kuester

AMG/ss