

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

SHAUN K SCHULER

Claimant,

and

DALL-HAUS INC

Employer.

HEARING NUMBER: 09B-UI-05897

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: 96.5-2-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 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**.

John A. Peno

Elizabeth L. Seiser

AMG/fnv

DISSENTING OPINION OF MONIQUE F. KUESTER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. I find the claimant's testimony lacked credibility. When asked if he was warned about his tardiness, the claimant testified that he wasn't aware of any reprimand regarding his attendance. But in the same instance, he contradicted himself testifying "... they might have said something." (Tr. p.9, lines 26-34)

The claimant received a handbook and by his own admission had knowledge that he could be terminated for his behavior. (Tr. 10, lines 30-34) The record establishes that the claimant missed 2/3 of his scheduled days since the start of the year, (Tr. 4 lines 5-13) which the claimant did not refute, lending credibility to the employer's testimony in this regard. The claimant's additional testimony about an "injury" to his neck was irrelevant. In conclusion, I would deny benefits.

Monique F. Kuester

AMG/fnv