



AMG/fnv

**DISSENTING OPINION OF JOHN A. PENO:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The claimant had a terrible attendance record upon which the employer made a business decision to discharge her for the final act (car broke down en route to work), which was totally out of the claimant's control. The claimant had no prior recurring problems with her vehicle, other than having to replace the water pump. While the employer may have compelling business reasons to terminate the claimant, conduct that might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For this reason, I would conclude that the employer failed to satisfy their burden of proof.

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John A. Peno

AMG/fnv