

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

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**JAMES FAIRCHILD**

Claimant,

and

**IOWA WORKFORCE**

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**HEARING NUMBER: 12B-UI-09883**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**N O T I C E**

**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: 96.3-7**

**D E C I S I O N**

**UNEMPLOYMENT BENEFITS ARE DENIED**

The Claimant 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**.

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Monique F. Kuester

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Cloyd (Robby) Robinson

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

I respectfully dissent from the decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge in its entirety. I would find that the Claimant was *not* on an agreed to leave of absence. In addition, his restrictions were the result of a work-related injury. The Claimant is currently able and available for work in the general workforce. See, 871 IAC 24.22(1)"b" which provides, in part, that a person "...must be physically able and available for work, not necessarily in the individual's customary occupation, but in some *reasonably suitable, comparable, gainful, full-time endeavor...* that is generally available in the labor market..." (Emphasis added.) For this reason, I would conclude that the Claimant should be allowed benefits provided he is otherwise eligible.

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John A. Peno

AMG/fnv