

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

LOIS A BERGMAN

Claimant,

and

EXPRESS SERVICES INC

Employer.

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HEARING NUMBER: 12B-UI-03588

**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: 96.5-1

DECISION

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**.

Monique F. Kuester

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. The Claimant quit reporting to work because her non-custodial ex-husband took their child out of the area. She informed the Employer of her personal issues, and even informed the client-assignment of her problem. The Claimant provided unrefuted testimony that she only missed two days works in a 9-month period. In addition, the Claimant's testimony was corroborated by her witness, which I find credible.

When the matter was resolved, and her son was safe, the Claimant immediately returned to the Employer to report for reassignment. However, the Employer told the Claimant that she would not be reassigned until her divorce was final. Mr. Timmerman said he left the Claimant messages on her phone. The Claimant's phone did not accept voice messages. I find the Claimant provided a reasonable excuse for her absences. Based on this record, I would conclude that the Claimant did not quit and benefits should be allowed provided she is otherwise eligible.

John A. Peno

AMG/fnv