

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

RODNEY D USHER

Claimant,

and

BILL, ANTHONY D

Employer.

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HEARING NUMBER: 09B-UI-00091

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: 96.4-3

D E C I S I O N

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**.

The Employment Appeal Board would also remand this matter to the Iowa Workforce Development Center, Claims Section, for a determination of the separation issue.

Elizabeth L. Seiser

AMG/fnv

Monique F. Kuester

CONCURRING OPINION OF JOHN A. PENO:

I agree with my fellow board members that the administrative law judge's decision should be affirmed; however, I would not remand this matter. I would note, however, that the claimant has received two consecutive decisions that affirmed his eligibility for benefits. Thus, should he receive a subsequent adverse decision in this matter, he shall not be liable for an overpayment.

John A. Peno

AMG/fnv

A portion of the employer's appeal and written argument to the Employment Appeal Board consisted of additional evidence which was not contained in the administrative file and which was not submitted to the administrative law judge. While the appeal, coupled with the written argument, and additional evidence (documents) were reviewed, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

John A. Peno

Elizabeth L. Seiser

Monique F. Kuester

AMG/fnv