

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

THOMAS L BASTIS

Claimant,

and

JELD-WEN INC

Employer.

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HEARING NUMBER: 09B-UI-11537

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: 96.5-2-a

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 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. The claimant's various medical conditions are unfortunate. However, the incident that resulted in his discharge was as a direct consequence of the claimant's failure to take his medication. While his medical issues are valid, it does not mitigate the fact that he climbed over a saw with the explicit intention of harming a co-worker and himself in the process. I would find the claimant's actions were willful and a deliberate violation and disregard for the standard of behavior that the employer has a right to expect in the workplace. Thus, I would conclude that the employer satisfied their burden of proving disqualifying misconduct. I would deny benefits.

Monique F. Kuester

AMG/fnv