

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

JACKI R GIBBONS

Claimant,

and

EAST UNION COMM SCHOOL DIST

Employer.

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HEARING NUMBER: 11B-UI-13043

**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: 96.5-1

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**.

Monique F. Kuester

Elizabeth L. Seiser

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. I would find that the claimant voluntarily quit with good cause attributable to the employer. Initially, the employer asked the claimant to attend a meeting concerning a “letter to the editor” she had published in the local newspaper. When she got to the meeting, she was denied her request for a witness or representative, which she found unsettling. After the meeting, Mr. Chenoweth (Transportation Director) told the claimant that she was fired. Later, the claimant received a letter indicating that she was suspended. After this, she was sent another letter to attend a closed session of the school board. There is nothing in the record to support that the claimant requested a closed meeting. Rather, the record supports that the claimant wanted an open meeting. (Tr. 28, lines 21-34) If the claimant did not, in fact, ask for the first meeting to be closed, I would question the legality of the closed session. At the school board meetings, Superintendent Pam Vogel wanted the claimant fired. The school board did not support Dr. Vogel’s recommendation to fire the claimant.

The record establishes that the claimant was subjected to a meeting with Dr. Vogel in which the claimant was denied a witness, mistakenly informed she was fired, and sent a letter to attend what appeared to be an unrequested closed school board meeting where Dr. Vogel, again, tried to fire her. All of these events transpired within a few days, which created detrimental and intolerable working conditions for the claimant that led to her decision to quit without notice. Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2005) where the court held that the notice of intention to quit set forth in Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993) does not apply to quits involving detrimental and intolerable working conditions. The Hy-Vee case also overturned Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa App. 1996) involving quits due to unsafe working conditions. I would allow benefits provided the claimant is otherwise eligible.

John A. Peno

AMG/kjo