

AMG/fnv

CONCURRING OPINION OF MONIQUE F. KUESTER:

I agree with my fellow board members that the administrative law judge's decision should be affirmed; however, I would comment that while the employer may have compelling business reasons to terminate the claimant, conduct that might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W. 2d 219 (Iowa App. 1983.) I would reiterate that it is the employer who has the burden of proof; and it is clear that the claimant was employed for 27 days and absent for 12 (nearly half of that time). (Tr. 19, line 8) It is also clear that the claimant was excessively absent and a majority of the absences somehow coincided with the weekends. (Tr. 17, lines 7-23)

However, the claimant appears to have properly reported all her illnesses and the final act, which resulted in her termination, was also properly reported. It is for these reasons that I would allow benefits provided she is otherwise eligible.

Monique F. Kuester

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