

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

KYLE J JOHNSTON

Claimant

HEARING NUMBER: 17BUI-09206

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: 24.2-1H1&2

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 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 Board affirms this case. As noted by the Administrative Law Judge, Iowa Workforce Development has amended its backdating regulation and as a result severely limited the grounds for allowing backdating. This case does not fall within the grounds now present in the regulation. The regulation was passed by Iowa Workforce, and we have no authority to rescind, amend, or strike down that regulation. We question that the regulation as drafted comports with due process, or the Social Security Act. *C.f. California Dept. of Human Resources v. Java*, 402 U.S. 121 (1971); *Williams v. Bd of Review*, 948 N.E.2d 561, 241 Ill. 2d 352, 350 Ill. Dec. 281 (2011). Unlike the Iowa District Court, we do not have the equity authority to strike down the regulation.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv