

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

GERRY L LANTZ

Claimant,

and

BOYER TRUCKING

Employer.

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HEARING NUMBER: 08B-UI-06943

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(3)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**.

Elizabeth L. Seiser

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 note that the employer's offer of work was outside the claimant's benefit year. Thus, I would advise the employer to contact the Iowa Workforce Development Center, Claims Section, for a determination of the claimant's refusal to work on August 16th.

John A. Peno

AMG/ss

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. I would find that the claimant testified that the offer was to be effective August 1st. The claimant called, but only left a message that the employer testified he did not receive. The claimant testified that he wasn't sure what message was left. (Tr. 5, lines 10-11) The employer testified that there was no August 1st issue, which the claimant denied. I find the employer more credible than the claimant. It appears that the claimant was waiting for another job offer in which case benefits should be denied based on the claimant's refusal of suitable work.

Monique F. Kuester

AMG/ss