

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

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ANGELA L STOVER

Claimant,

and

CARE INITIATIVES

Employer.

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HEARING NUMBER: 09B-UI-07698

EMPLOYMENT APPEAL BOARD  
DECISION

**NOTICE**

**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**

**DECISION**

**UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE**

The employer appealed this case to the Employment Appeal Board. All members of the Employment Appeal Board reviewed the entire record. A majority of the Appeal Board, one member dissenting, 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**.

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John A. Peno

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Elizabeth L. Seiser

RRA/fnv

**DISSENTING OPINION OF MONIQUE KUESTER:**

I respectfully dissent from the majority decision of the Employment Appeal Board. After careful review of the record, I would reverse the decision of the administrative law judge. The claimant is an experienced RN and the expectation is that she would be diligent in following the protocol. I disagree with the findings of fact of the Administrative Law Judge that the weight of the evidence does not establish carelessness and/or negligence. The claimant is asserting that the employer might be fabricating the final incident because the employer failed to present any evidence to her directly. (Tran at p. 19-20 In. 29-34). She then asserts that someone else could have left the syringe. (TR: P. In. 3-5). Then in a final attempt to shift the blame she testifies that it is possible that due to the size of the patient the syringe could have been left in his bed, somehow blaming the patient. (TR. P. 28-29 In. 32-34/1-10. All the different scenarios cause me to seriously question her credibility. Since I conclude based on the evidence that the claimant left the syringe I conclude that she was careless and negligent. Leaving the syringe rises to the level of misconduct. Benefits should be denied.

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Monique Kuester

RRA/fnv