

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

RODNEY HARDEN

Claimant,

and

HEARTLAND EXPRESS INC OF IOWA

Employer.

:
:
:
:
:
:
:
:

HEARING NUMBER: 09B-UI-05345

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. 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**.

John A. Peno

Elizabeth L. Seiser

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. The claimant was aware that as a part of the employment agreement, the driver would accept all assigned loads and refusal to take the load could result in his termination. (Tr. 19-20, lines 32-34, 1-10, respectively.) The employer should have provided firsthand testimony from the dispatcher. However, I find the employer's testimony to be credible. As for the claimant's testimony that he didn't recall any of the reprimands, I find this testimony not credible. Thus, I would conclude that the employer satisfied their burden of proof and I would deny benefits.

Monique F. Kuester