

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

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LUAN M BUEHL	:	
	:	
Claimant,	:	HEARING NUMBER: 08B-UI-03944
	:	
and	:	
	:	EMPLOYMENT APPEAL BOARD
MORNING SUN CARE CENTER	:	DECISION
	:	
Employer.	:	

**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 concurring, 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**.

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John A. Peno

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Elizabeth L. Seiser

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 also make the following comment. As the administrative law judge's pointed out, the employer only offered hearsay evidence. In addition, the claimant's prior violation, as presented, did not appear to be connected to patient care and was not connected to the current act in any way. 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). The care and concern for patient and dignity is very critical; however, the employer failed to satisfy their burden of proof.

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Monique F. Kuester

AMG/fnv