

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

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AMY KINGERY

Claimant,

and

WELLS FARGO BANK NA

Employer.

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HEARING NUMBER: 07B-UI-09249

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: 96.1**

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, 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**.

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Elizabeth L. Seiser

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Mary Ann Spicer

AMG/fnv

**DISSENTING OPINION OF JOHN A. PENO:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The record reflects that the claimant had reason to believe that she was going to be fired. The claimant provided unrefuted testimony that she discussed her resignation letter with Mr. Stover. She explained that she was resigning because she didn't want a termination on her record. When she questioned Mr. Stover about whether this was a good idea, he replied, "yes." (Tr. 12, lines 30-34) After this conversation, any reasonable person would believe they were going to be terminated. For this reason, I would conclude that the claimant was, in essence, forced to resign which is not a voluntary leaving. See, 871 IAC 24.26(21), which provides, "The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving."

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John A. Penno

AMG/fnv