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

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GEORGE GARCIA	E HEARING NUMBER:	17BUI-03496
Claimant		
and	-	APPEAL BOARD
TSI ENTERPRISES INC		SION
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 reviewed the entire record. 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**.

Ashley R. Koopmans

James M. Strohman

### **DISSENTING OPINION OF KIM D. SCHMETT:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. I would find the Claimant was seven-month employee having prior warnings for other incidents and unexcused absences. His final acts occurred when he failed to report to work on two occasions when he was supposed to be on-call, which resulted in his termination. Based on this record, I would conclude the Employer satisfied their burden of proof and would deny benefits until such time he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. See, Iowa Code section 96.5(2)"a".

Kim D. Schmett

AMG/ss