

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

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**DEBRA A VANDOLAH**

Claimant,

and

**EDU CARE LEARNING CENTERS INC**

Employer.

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**HEARING NUMBER: 12B-UI-13573**

**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: 96.5-1**

**DECISION**

**UNEMPLOYMENT BENEFITS ARE DENIED**

The Claimant appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. Those members are not in agreement. Monique F. Kuester would affirm and John A. Peno would reverse the decision of the administrative law judge.

Since there is not agreement, the decision of the administrative law judge is affirmed by operation of law. The Findings of Fact and Reasoning and Conclusions of Law of the administrative law judge are adopted by the Board and that decision is **AFFIRMED** by operation of law. See, 486 IAC 3.3(3).

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Monique F. Kuester

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

I respectfully dissent from the decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The record establishes that the employer told the Claimant that the employer could not hold the Claimant's job any longer due to the Claimant's prolonged medical leave. (Tr. 12, 13, 17) The Claimant only accepted substitute teaching positions after the employer terminated her full-time employment.

The Claimant's testimony at Tr. 18 establishes that the Claimant is now able to work full-time hours, for which she continues to look for full-time work. The Claimant was discharged for not being able to return to work because of medical issues. Illness is not misconduct. Based on this record, I would allow benefits provided the Claimant is otherwise eligible.

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John A. Peno

AMG/fnv