

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

CHENOA M MARTIN

Claimant,

and

WESTAR FOODS INC

Employer.

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HEARING NUMBER: 11B-UI-16573

**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 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**.

Monique F. Kuester

Elizabeth L. Seiser

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. I would find that the claimant had a terrible attendance record. The employer was aware that the claimant was late numerous times; yet the employer never issued the claimant any written warnings. The record also establishes that the claimant was discharged only after the claimant informed the employer that she would be looking for another job and would give the employer a two-week notice when she found a new job. (Tr. 11, lines 18-27) The claimant had no prior written warnings on attendance; looking for other employment is not misconduct. Based on this record, I would allow benefits provided the claimant is otherwise eligible.

John A. Peno

AMG/fnv