

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

DERRIC R DAVIS

Claimant,

and

HEARTLAND EXPRESS INC OF IOWA

Employer.

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HEARING NUMBER: 09B-UI-09063

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: 96.5-1

D E C I S I O N

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 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**.

John A. Peno

Elizabeth L. Seiser

DISSENTING OPINION OF MONIQUE F. KUESTER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. Based on the facts of this case, I find that it was reasonable for the employer to believe that the claimant quit when he failed to return to work. The claimant was unable to perform his duties as assigned due to his illness. The DOT does not allow the claimant to drive while he is on injectable insulin to treat his illness. The claimant was not laid off and his illness could not be attributable to the employer.

The claimant has not been released to return to work and he failed to provide any testimony as to whether he is actively seeking other employment in another field. The claimant's situation is unfortunate, however, benefits should be denied.

Monique F. Kuester