

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

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**MAURICE JONES**

Claimant,

and

**TYSON RETAIL DELI MEATS INC**

Employer.

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**HEARING NUMBER: 10B-UI-08956**

**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. The members of the Employment Appeal Board, one member concurring and 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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Monique F. Kuester

AMG/fnv

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

I agree with my fellow board members that the administrative law judge's decision should be affirmed. However, I would note that the claimant was incarcerated for over one week, which would clearly place the claimant's separation under the administrative rule cited.

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John A. Peno

AMG/fnv

**DISSENTING OPINION OF ELIZABETH L. SEISER:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The claimant did miss work from May 14<sup>th</sup> through May 20<sup>th</sup> when he was discharged. The claimant was incarcerated and released on May 21<sup>st</sup>. He immediately reported to the employer (Tyson) to show that he had been arrested and incarcerated, but that the charges were dismissed. The claimant had exhausted his number of allowable points under the employer's no fault point system due strictly to these absences. Documentation from the attorney, magistrate, and court documents show that any charges were dismissed on May 21<sup>st</sup>.

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Elizabeth L. Seiser

AMG/fnv