

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

CATHERINE L SHILLING	:	
	:	
Claimant	:	HEARING NUMBER: 16B-UI-07115
	:	
and	:	
	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
SWIFT PORK CO	:	
	:	
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. All members of the Employment Appeal Board reviewed the entire record. A majority of the Appeal Board, one member dissenting, finds the administrative law judge's decision is correct. With the following modification, 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** with the following **MODIFICATION**:

The majority Board members would modify the administrative law judge's Reasoning and Conclusions of Law by striking the last sentence of the last paragraph on p. 2 going onto p. 3, as follows:

~~...Even if she intentionally misrepresented the amount of time she was away on break, this did affect her compensation and does not amount to time theft from the employer...~~

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 that the Claimant did, in fact, falsify her timecard, and it is irrelevant whether or not it impacted her pay. She misrepresented her break time by 12 minutes. For this reason, I would conclude that the Employer satisfied their burden of proof and would deny benefits until such time she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. See, Iowa Code section 96.5(2)"a".

Kim D. Schmett

AMG/fnv