

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

GARY W POOLE

Claimant,

and

EMS DETERGENT SERVICES

Employer.

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HEARING NUMBER: 08B-UI-06312

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 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

AMG/fnv

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. The claimant was a short-term employee who chose not to report to work. Additionally, he could not decide whether or not it was the chemicals, which caused a burning sensation to his skin and eyes that hindered his job performance. (Tr. 13, lines 2-20) The claimant also used the weather in addition to the chemicals, and finally an “agreed” upon salary for excuses. Considering these inconsistencies, I find the claimant’s testimony to be totally lacking in credibility. For this reason, I would find that misconduct was established and benefits should be denied.

Monique F. Kuester

AMG/fnv