

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

SHELLIE L PROCTOR

Claimant,

and

CEDAR BEND HUMANE SOCIETY

Employer.

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HEARING NUMBER: 12B-UI-12867

**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, 24.25-6

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. Those members are not in agreement. Monique F. Kuester would affirm and John A. Peno would reverse the decision of the administrative law judge.

Since there is not agreement, the decision of the administrative law judge is affirmed by operation of law. The Findings of Fact and Reasoning and Conclusions of Law of the administrative law judge are adopted by the Board and that decision is **AFFIRMED** by operation of law. See, 486 IAC 3.3(3).

John A. Peno

Monique F. Kuester

DISSENTING OPINION OF JOHN A. PENO:

I respectfully dissent from the decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The claimant believed that she was singled out and harassed because of her gender and race. The employer's cross-examination of the claimant indicated that there was a problem and discipline of the claimant's supervisor and others "may" have occurred. I do not believe that the claimant's giving of a two-week notice had anything to do with why the claimant quit.

The claimant informed the employer in her notice of her reason for quitting. The record establishes that on, at least, one occasion, the claimant's supervisor yelled and cursed at her. This behavior corroborates the claimant's allegations that she worked under detrimental and intolerable working conditions. For this reason, would conclude that the claimant's satisfied her burden of proving that she quit with good cause attributable to the employer. Benefits should be allowed provided the claimant is otherwise eligible.

John A. Peno

AMG/kjo