

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building, 4<sup>TH</sup> Floor  
Des Moines, Iowa 50319  
eab.iowa.gov**

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**GUILLERMO RODRIGUEZ**

Claimant

and

**SWIFT PORK COMPANY**

Employer

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**HEARING NUMBER: 22B-UI-00020**

**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, 96.5-1

**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 reviewed the entire record. The Appeal Board, one member dissenting, 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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James M. Strohman

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Ashley R. Koopmans

**DISSENTING OPINION OF MYRON R. LINN:**

After a complete review of this claim including audio testimony, I respectfully disagree with the majority decision granting benefits to the Claimant.

The Claimant testified that multiplied times he had been harassed by a co-worker, both verbally and physically. In matters such as this, an employee has access to management and/or to Human Resources representatives in the Employer's workplace. The Claimant further testified that he had not communicated with the management nor the Human Resources Department. I find the Claimant's physical retaliation against his co-worker unacceptable behavior in the workplace, and against the Employer's interests.

After the co-worker's alleged physical contact, the Claimant physically retaliated and pushed the co-worker, thereby choosing inappropriate and unacceptable behavior. The Employer has a reasonable expectation regarding workforce behavior. The Claimant's decision to physically handle this matter himself, instead of addressing it through management is disqualifying.

It is my opinion that the Administrative Law Judge's decision should be reversed and benefits denied until such time he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. See, Iowa Code section 96.5(2)"a".

AMG/fnv

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Myron R. Linn