

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

JOANN R DECKERT

Claimant,

and

L A LEASING INC

Employer.

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HEARING NUMBER: 08B-UI-02496

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: 96.5-3-a

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The claimant 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 Employment Appeal Board would modify the administrative law judge's Findings of Fact as follows:

After the claimant declined the job offer, Ms. Kiefer asked her what kind of work she was interested in. The claimant indicated customer service even though she had no experience in this area. Ms. Kiefer did not have a job offer of customer service at that time.

Elizabeth L. Seiser

AMG/fnv

Monique F. Kuester

DISSENTING OPINION OF JOHN A. PENO:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The claimant refused work on February 11, 2008 for a job that started on February 18, 2008. The claimant testified that she was offered two jobs and chose to take the customer service job that started on February 18th. She refused the janitor position, as she was already working a part-time job in the evenings earning \$8.50/hour for 15 hours/week. The janitor position paid only \$12.00/hour for forty hours/week.

The employer testified that no customer service job was offered to the claimant on February 11, 2008, which conflicts with the claimant's testimony. The claimant's log on calls to the employer from January 2, 2008 through March 27, 2008 establishes that it more likely than not that the employer did offer the claimant two jobs on February 11th. Although this is a close call, I would find that Exhibit B corroborates the claimant's testimony as to the second job offer. For this reason, I would allow benefits provided she is otherwise eligible.

John A. Peno

AMG/fnv