

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

JOEL A MARTENS

Claimant

and

CUSTOM-PAK INC

Employer

HEARING NUMBER: 19BUI-04331

**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 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**.

Kim D. Schmett

Ashley R. Koopmans

DISSENTING OPINION OF JAMES M. STROHMAN:

I respectfully dissent from the majority decision of the Employment Appeal Board. I would reverse the administrative law judge's decision, and find the Claimant exhibited misconduct by posting a cartoon depicting management and employees engaged in conflict that included pointing guns at one another. There was an immediate complaint regarding the posting of the cartoon, which had been placed at a common time clock area utilized by all employees. When questioned regarding the cartoon, the Claimant stated, "If you shoot the employee, you go down too." The Employer indicated the Claimant had a history of disgruntled attitudes, and attempted to read his annual reviews into the record. However, the administrative law judge denied them that opportunity. If allowed, the annual review information might have shown a pattern of behavior which would enhance the reason for termination, which I would find to be disqualifying misconduct by itself.

James M. Strohman

AMG/ss