

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

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MELISSA SAATHOFF

Claimant,

and

AKRON CHILDRENS CENTER INC

Employer.

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HEARING NUMBER: 08B-UI-04044

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**

**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**:

Add to the conclusions of law the following:

The record does show that although the Claimant did not tell anyone about leaving *before* she had decided to go she did say to Ms. Madden on her way out "I'm so done." (Tran at p. 9, ll. 24). This further bolsters the conclusion that the Claimant intended to quit and did so.

In the alternative we hold that even if this case is viewed as a termination the Employer has proven that the Claimant committed misconduct. The Employer of course has an important

interest in maintaining the allowed ratio between workers and their charges. 441 IAC 109.8. An employee walking off the job is very serious for any employer and for a day care it is even more

serious than usual. The Claimant's action was "an intentional and substantial disregard of the employer's interests [and] of the employee's duties and obligations to the employer." 871 IAC 24.32(1)(a). Misconduct was proved and for this independent reason the Claimant should also be denied benefits.

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Elizabeth L. Seiser

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Monique F. Kuester

RRA/ss

**DISSENTING OPINION OF JOHN A. PENO:**

I respectfully dissent from the majority decision of the Employment Appeal Board. After careful review of the record, I would reverse the decision of the administrative law judge. The evidence shows that the Claimant called a board member within 15 minutes of her walking out. The Claimant was then called by the Employer who discussed the Claimant's attitude with her. Under Peck v. EAB 492 N.W.2d 438 (Iowa App. 1992) this is not a quit. In Peck the claimant left work without permission and requested a meeting with management the next day. The Court found that "[t]he evidence shows Peck intended to express a complaint about work conditions" not quit. The same observation applies here.

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John A. Peno

RRA/ss