



**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 was a salaried employee whose hours increased to 45 hours weekly. I do not consider the Claimant to be an “exempt” salaried employee. The Claimant believed she was entitled to overtime and that the Employer was in violation of the law for failing to pay her 4 hours’ overtime that the Employer expected of her. The court in *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993) held that the Claimant need not prove that the Employer’s actions that triggered the quit were, in fact, illegal. Rather, the court used the reasonable person standard, which indicates if a reasonable person would believe the Employer’s actions were illegal, then there is good cause to quit. Based on this rationale, I would conclude that the Claimant should be allowed benefits provided she is otherwise eligible.

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John A. Peno

AMG/fnv