

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

BYRON WILLINGHAM

Claimant,

and

WEAVER ENTERPRISES LTD

Employer.

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HEARING NUMBER: 10B-UI-18858

**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: 96.4-3

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member dissenting, reviewed the entire record. The Appeal Board 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**.

Elizabeth L. Seiser

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 employer maintains that the claimant was hired as an on-call employee for which the employer admits that they have very few people in that status within the entire company. The claimant argues he that was hired for part-time work for which I find the claimant credible, absent a written contract. Terry Moffit, the Director of Operations testified that employees are scheduled according to their efficiency, i.e., someone who is fast and more efficient would get more hours. The claimant never received any discipline for lacking efficiency and the record reflects that he worked 20-25 hours weekly. The employer admits that the claimant's hours were reduced since his hiring. Thus, I would conclude that the claimant is able and available for work and should therefore be entitled to benefits.

John A. Peno

AMG/ss