

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

MARIA ISABEL LASSWELL

Claimant,

and

THE UNIVERSITY OF IOWA

Employer.

:
:
:
:
:
:
:
:

HEARING NUMBER: 12B-UI-03399

**EMPLOYMENT APPEAL BOARD
DECISION**

N O T I C E

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

D E C I S I O N

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**.

Monique F. Kuester

Cloyd (Robby) Robinson

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 did not respond to the Employer's page for 20-30 minutes, which caused the Employer to look for her. Although the Employer found the cart, trash bin and vacuum she used in different areas where she had been assigned, she was not present in any of those locations. The Claimant denied that her pager was on sleep mode. The Employer failed to provide a firsthand witness to refute the Claimant's version of events. For this reason, I would conclude that the Employer has failed to prove misconduct by as preponderance of the evidence. Benefits should be allowed provided the Claimant is otherwise eligible.

John A. Peno

AMG/fnv