

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

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**ALLIE KELTING**

Claimant

and

**HY-VEE INC**

Employer

**HEARING NUMBER: 17BUI-07501**

**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, 24.32-7

**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**.

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Ashley R. Koopmans

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James M. Strohman

**DISSENTING OPINION OF KIM D. SCHMETT:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. I would find the Claimant was terminated for poor attendance, the last two incidents of which involved lack of child care. “[A]bsenteeism arising from matters of **purely personal responsibilities** such as **child care and transportation**” are not excused. *Harlan v. Iowa Department of Job Service*, 350 N.W.2d 192 (Iowa 1984) (late bus) (emphasis added); see *Spragg v. Becker-Underwood, Inc.* 672 N.W.2d 333, 2003 WL 22339237 (Iowa App. 2003) See also, *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984) wherein the court found unexcused “personal problems or predicaments other than sickness or injury, which included oversleeping, delays caused by tardy babysitters, car trouble, and no excuse.” For this reason, I would deny benefits until such time she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. See, Iowa Code section 96.5(2)“a”.

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Kim D. Schmett

AMG/fnv