

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

NATHAN D DILLON

Claimant,

and

ALL SEASONS HEATING & COOLING INC

Employer.

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HEARING NUMBER: 10B-UI-10697

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 ALLOWED IF OTHERWISE ELIGIBLE

The employer 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**.

The Employment Appeal Board would comment that the claimant in Peck v. Employment Appeal Board, 492 N.W.2d 438 (Iowa App. 1992) also left the workplace in anger over working conditions. He, too, returned the next workday, and argued that he had no intention to quit when he hastily left the day before. The court found if he intended to quit he would not have returned to meet with management, which is essentially what happened to the claimant in the case at hand. Additionally, the employer failed to provide the claimant's supervisor as a firsthand witness to refute the claimant's firsthand testimony.

John A. Peno

AMG/fnv

Elizabeth L. Seiser

DISSENTING OPINION OF MONIQUE F. KUESTER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. Based on the evidence and the testimony presented, I find it credible that the claimant intended to quit. The employer's belief that he quit was also reasonable under the circumstances. It is my belief that the both the claimant and his attorney were more interested in setting the stage for further workers' compensation claims.

Monique F. Kuester

AMG/fnv