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

BRIAN M KEENEY	HEARING NUMBER: 16B-UI-05593
Claimant	HEARING NUMBER: 10D-01-03393
and	EMPLOYMENT APPEAL BOARD DECISION
OZARK AUTOMOTIVE DISTRIBUTORS : INC	

Employer

ΝΟΤΙΟΕ

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, 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 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.

Ashley R. Koopmans

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. The Employer has a set of work rules that establishes the type of moral conduct it expects of its employees, and of which it seeks to maintain its reputation with the general public. The Employer would not hire a person with this type of offense in his background in the first place; nor would the Employer continue the employment of an employee currently in its employ who commits this type of offense whether on or off duty. For this reason, I would conclude that the Claimant violated the Employer's policy for which he was terminated, and should be denied benefits until such time he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. See, Iowa Code section 96.5(2)"a".

Kim D. Schmett

AMG/fnv