

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

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**SAMANTHA L WILSON**

Claimant

and

**CASEY'S MARKETING COMPANY**

Employer

**HEARING NUMBER: 18BUI-10517**

**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, 96.3-7

**DECISION**

**UNEMPLOYMENT BENEFITS ARE DENIED**

The Claimant appealed this case to the Employment Appeal Board. All members of the Employment Appeal Board reviewed the entire record. A majority of the Appeal Board, one member concurring, finds the administrative law judge's decision is correct. With the following modification, 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** with the following **MODIFICATION**:

The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law at p. 6, last paragraph, by striking the following sentences.

~~However, Ms. Wilson made intentionally misleading statements at the fact-finding interview when she pleaded ignorance of the basis for the discharge, when she asserted she had not failed to follow a directive and when she asserted she had no prior warnings. Ms. Wilson knew these utterances were false when she made them. Because Ms. Wilson made intentionally misleading statements at the fact-finding interview, she is required to repay the overpaid benefits.~~

We find the Claimant was not being fraudulent when providing her version of events that led to her termination. Consequently, the Claimant is **not** liable for the overpayment in this matter.

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Ashley R. Koopmans

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James M. Strohman

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

I agree with my fellow board members that the administrative law judge's decision should be affirmed with the modification as to the Claimant's not making fraudulent statements. However, I disagree with the administrative law judge's assessment of the Employer's participation. I would find the Employer's presence and submission of documents at the fact-finding interview satisfied the participation requirements, and should be relieved of liability for benefits.

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Kim D. Schmett

AMG/fnv