



The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law by noting that the claimant failed to refute the employer testimony, particularly regarding prior problems. Additionally, the claimant did not present his medical issue to the employer; otherwise, the employer would have offered him FMLA. Lastly, the record establishes that the claimant violated the union contract.

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Elizabeth L. Seiser

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Monique F. Kuester

AMG/ss

**DISSENTING OPINION OF JOHN A. PENO:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. The claimant was discharged for two days of no call/no show, which according to union contract, would warrant termination. But according to unemployment compensation law, the claimant would have to be a no call/no show for three consecutive days of unexcused absences to be disqualified for benefits.

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John A. Peno

AMG/ss