

AMG/fnv

DISSENTING OPINION OF JOHN A. PENO:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The claimant testified that he was laid off due to a reduction in workforce as of November 11, 2008 according to the claimant's Exhibits A & B; one of those exhibits also indicated a larger layoff occurred in January of 2009.

The employer testified that it was the claimant's decision to stop working. The claimant had retired on September 1, 2008. The employer explained that the layoff notice was given to all retirees. For unemployment insurance purposes, the claimant is not required to sign in at union hall to search for work. The claimant is, however, required to do a work search for any other employment. This case presents a close call. The facts show a "he said, she said" situation. I find the claimant's exhibits very compelling and would allow benefits provided he is otherwise eligible.

John A. Peno

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A portion of the claimant's appeal to the Employment Appeal Board consisted of additional evidence which was not contained in the administrative file and which was not submitted to the administrative law judge. While the appeal and additional evidence (documents) were reviewed, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

John A. Peno

Elizabeth L. Seiser

Monique F. Kuester

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