

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

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KELLY NEAL

Claimant,

and

SYNOVATE INC

Employer.

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HEARING NUMBER: 09B-UI-11587

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

DECISION

**UNEMPLOYMENT BENEFITS ARE DENIED**

The claimant 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**.

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Elizabeth L. Seiser

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Monique F. Kuester

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 denies that she revealed anything involving applicants and testing scores, which the employer failed to prove with a preponderance of the evidence that she revealed any test results.

The record establishes that the claimant was discharged because she repeated a comment her supervisor, Barb Bix, made. The claimant admits she made a mistake. While the employer may have compelling business reasons to terminate the claimant, conduct that might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). The record contains no evidence that the claimant had any prior discipline. At worst, this was an isolated instance of poor judgment that didn't rise to the legal definition of misconduct. I would allow benefits provided she is otherwise eligible.

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John A. Peno

AMG/fnv