



AMG/fnv

**DISSENTING OPINION OF MONIQUE F. KUESTER:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. I believe that the claimant's actions constituted misconduct within its legal definition. The content of "the chat" could be considered racist in nature. The claimant had been warned about previous behavior and the employer did not find that anyone had tampered with her computer as the claimant so alleged. Her comments that were circulated throughout the system were sent with a "... willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees..." See, 871 IAC 24.32(1)(a). For this reason, I would find that the employer satisfied their burden of proof and deny benefits.

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Monique F. Kuester

AMG/fnv