

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. The record establishes that the claimant received training for which he repeatedly signed off and had previous experience on this machine. (Tr. 7) He received a prior warning (Letter of Discipline) that he also signed in acknowledgment of receipt. (Tr. 8-9) The claimant met with his supervisor and admitted his fault. For this reason, I would conclude that the claimant failed to follow proper protocol on dangerous machinery which presented a safety hazard in the workplace. Benefits should be denied.

Monique F. Kuester

AMG/ss

A portion of the employer'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

AMG/ss