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

JOSE SEGURA	: : : <b>HEARING NUMBER:</b> 08B-UI-08178
Claimant,	:
and	: EMPLOYMENT APPEAL BOARD
OSCEOLA FOODS CORPORATION	: DECISION :
Employer.	

#### 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 ALLOWED IF OTHERWISE ELIGIBLE

The employer 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.

John A. Peno	
Elizabeth L. Seiser	

## 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	
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### 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