

DISSENTING OPINION OF KIM D. SCHMETT:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. The Claimant was a long-term employee who had no prior warnings or history of disciplinary action taken against him. At worst, I would find this was an isolated instance of poor judgement that didn't rise to the legal definition of misconduct.

Kim D. Schmett

AMG/fnv