

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

RHONDA TONCAR

Claimant,

and

THE AMERICAN BOTTLING COMPANY

Employer.

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HEARING NUMBER: 13B-UI-02552

**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: 96.5-2A

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

Cloyd (Robby) Robinson

DISSENTING OPINION OF MONIQUE F. KUESTER:

I respectfully dissent from the decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. I would find that the Employer's policy regarding the taking of confidential company documents away from the premises was clearly spelled out in the handbook, which the Claimant signed in acknowledgement of receipt. She also watched and signed off on a video specifically targeting this policy. Thus, she is attributed with knowledge of that policy, and her taking of those documents without permission can only be viewed as a deliberate violation of that company policy. The record establishes that she had received a prior warning about violating company policy. When the Employer conducted an investigation to determine if she had, in fact, taken company documents home, and inquired if she did, the Claimant admitted taking the call log and turned it over to the manager. Based on this record, I would conclude that the Employer satisfied their burden of proof. Benefits should be denied.

Monique F. Kuester

AMG/fnv