

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

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**JACOB C CASTLEBERRY**

Claimant,

and

**VALERO SERVICES INC**

Employer.

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**HEARING NUMBER: 10B-UI-11458**

**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: 96.5-2-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**.

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John A. Peno

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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 claimant clearly violated the employer's safety policy regarding lock out/tag out procedures based on the exhibits presented at the hearing and the claimant's testimony. (Tr. 10, lines 8 and lines 21-23) The claimant had knowledge of the policy which is evidenced by his signature on the handbook as well as based on his training on these procedures. The claimant also had knowledge that failure to comply with those procedures would result in his termination. Given the safety issue involved, I would conclude that the delay does not negate the fact that this was a serious violation that could result in serious liability to the employer. For this reason, I would deny benefits.

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Monique F. Kuester

AMG/kjo