

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

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CHRISTOPHER J CERETTI

Claimant,

and

CASEY'S MARKETING COMPANY

Employer.

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HEARING NUMBER: 09B-UI-13736

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 DENIED**

The claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member concurring, 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**.

A portion of the claimant'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.

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Elizabeth L. Seiser

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Monique F. Kuester

AMG/fnv

**CONCURRING OPINION OF JOHN A. PENO:**

I agree with my fellow board members that the administrative law judge's decision should be affirmed and that the new and additional evidence should be denied; however, I would comment that the claimant's appeal contained a letter from Samantha Johnson in which Ms. Johnson states that she did not witness the claimant inhale perfect dust. The claimant failed to present Ms. Johnson as a witness on his behalf at the hearing to corroborate his testimony. I would also note that the claimant testified at the hearing that he admitted to the employer he had inhaled perfect dust at work. Even if I were to accept the claimant's new and additional, it would have had no bearing on my decision.

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John A. Peno

AMG/fnv

The claimant's has requested this matter be remanded for a new hearing. The Employment Appeal Board finds the applicant did not provide good cause to remand this matter. Therefore, the remand request is **DENIED**.

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John A. Peno

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Elizabeth L. Seiser

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Monique F. Kuester

AMG/fnv