

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

ROXANE M COLE

Claimant

and

NEXTERA ENERGY DUANE ARNOLD LLC

Employer

HEARING NUMBER: 19BUI-01050

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: 96.5-1, 96.3-7

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, 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** with the following **MODIFICATION**:

The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law to include the following as supportive legal analysis:

In analyzing whether the Claimant has proven good cause attributable to the Employer for her quit, we have applied the legal standards developed in the case law governing this type of case. In particular, the record does not show that the Claimant had a well-grounded fear of "imminent" job loss required under the cases, nor indeed that she had a well-grounded fear of "a substantial loss by not accepting early retirement..." *Brady v. Board of Review*, 704 A. 2d 547 (N.J. Sup. 1997)(setting out two part test and citing cases and explaining benefits are generally only allowed when there are objective facts supporting conclusion that the claimant had a well-grounded fear that had the resignation had not taken place layoff or termination was imminent, and

01050

substantial economic loss); see also *Childress v. Muzzle*, 663 SE 2d 583 (W. Va. 2008)(adopting *Brady* two part test); *Renda v. Unemployment Comp. Bd. of Review*, 837 A. 2d 685 (Pa. Cmwlth 2003); *Uniroyal Goodrich Tire v. Employment Sec.*, 913 P. 2d 1377 (Okla. App. 1996); *Sievers v. Unemployment Comp. Bd. of Review*, 124 Pa.Cmwlth. 52, 555 A.2d 260, *aff'd per curiam*, 520 Pa. 83, 551 A.2d 1057 (1987); *York v. Review Bd. of Ind. Employment Sec.*, 425 NE 2d 707 (Ind. App. 1981); *Kentucky Unemploy. Ins. Com'n v. Kroehler Mfg. Co.*, 352 SW 2d 212 (Ky App. 1961); *Read v. Employment Sec. Dep't*, 62 Wash.App. 227, 813 P.2d 1262 (1991); *Robinson v. Department of Employment Sec.*, 827 P. 2d 250 (Utah App. 1992).

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv