

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

ADAM D BUGOS

Claimant,

and

PINNACLE FOODS GROUP

Employer.

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HEARING NUMBER: 09B-UI-02360

EMPLOYMENT APPEAL BOARD
DECISION

N O T I C E

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

D E C I S I O N

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

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. I would find that Mr. Bugos was aware that the information was confidential, and that there was no business-related reason for him to access it. The record establishes that he downloaded the information to a zip drive. While I understand that an inadvertent look at a confidential file could occur, it is the additional act of removing the file to another location that I find exemplifies the claimant's willful and intentional disregard for the employer's company policy, which is misconduct by its legal definition.

I concede that there is an issue regarding a current act; however, given the magnitude of the investigation and the fact that the plant was closed for various reasons, I would find that the employer's delay to take action was the employer's sincere attempt to ensure that everyone was given a 'fair' investigation. For these reasons, I would conclude that the employer satisfied their burden of proof and I would deny benefits.

Monique F. Kuester