

AMG/fnv

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 find the employer's testimony to be more credible. The claimant was with the company since 2006, and the employer worked to accommodate the claimant's medical issues. Since misconduct is defined, in part, as a willful and wanton disregard of the employer's interest and the nature of the employer's business is customer service-oriented, I feel her actions constituted misconduct. The claimant was required to ensure that calls were terminated by simply pushing a button. Yet, the claimant not only failed to take the required, she subsequently took a self-imposed break, which resulted in dead air and a customer seeking assistance. Lastly, the claimant had prior warnings. Based on the foregoing, I would conclude that the employer satisfied their burden of proof. Benefits should be denied.

Monique F. Kuester

AMG/fnv