

AMG/fnv

DISSENTING OPINION OF JOHN A. PENO:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The claimant was late on numerous occasions for which she received a prior warning. The employer seems to have fired the claimant primarily because the claimant issued a written warning to the employer's daughter for being tardy. The claimant was three minutes late on July 16, 2009 (Tr. 9); three minutes late on July 15th (Tr. 10); and eight minutes late on July 14th. The claimant testified that there was an understanding between her and Amber Mathis. (Tr. 21) The employer established that employees are late many times and don't get written up. (Tr. 15-16)

John A. Peno

AMG/fnv