

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

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**ARON L NORDBY**

Claimant,

and

**CARROLL COOLERS INC**

Employer.

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**HEARING NUMBER: 11B-UI-17010**

**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 DENIED**

The claimant 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**.

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Monique F. Kuester

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Elizabeth L. Seiser

**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 had a bad attitude about work, i.e., he'd say things like, "I don't give a f-ck!" The employer counseled the claimant, but never issued any written warnings. As for the final act, Ms. Beardmore indicated that the claimant yelled at her over the phone, which did not involve any profanity. The claimant was upset because his request for personal leave was denied. According to the claimant, the personnel handbook allowed personal leave. Although Ms. Beardmore agreed, she stated that the handbook was vague; and that it was being updated. (Tr. 4, lines 29-33)

I believe that the employer discharged the claimant when he put the employer on notice that he would seek other employment because the employer refused to work with the claimant. The claimant's attitude may not have been the best, but both parties agreed that the claimant indicated that he would come in, 'shut-up', and do his job. The employer's testimony regarding a prior warning waived. First the employer testified that he issued the claimant a verbal warning on August 9, 2010 (Tr. 6, lines 13-12) for which he later denied during cross-examination. (Tr. 7, lines 27-30). I would conclude that the final act did not rise to the legal definition of misconduct. Benefits should be allowed provided the claimant is otherwise eligible.

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John A. Peno

AMG/fnv