

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 Employer (Jacobson Staffing) terminated the Claimant for no reason. A glove went through a machine, which the Claimant denied placing it there. The Claimant got oil on the gloves, and left them on the desk/platform to retrieve a new pair.

At the hearing, the Employer called in at which time the administrative law judge gave synopsis of hearing. The Employer received a call on March 4, 2012 informing her that the Claimant intentionally threw gloves into a machine. The Employer read witnesses' statements into the record, which the Claimant denied all allegations. The Employer provided no firsthand witness to refute the Claimant's firsthand testimony. I would attribute more weight to the Claimant's version of events. For this reason, I would allow benefits provided the Claimant is otherwise eligible.

John A. Peno

AMG/fnv