



2012). But this simple principle, based on the plain meaning of the statute, also means that a *failure* to protest does cross benefit years to bar a protest of a newly filed subsequent initial claim. Finally, we cannot simply infer based on a failure to protest that it must be that the Claimant was laid off and that is why the Employer failed to protest. We base our decision on record evidence, not on speculation, and that evidence causes us today to adopt the Administrative Law Judge's decision.

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Kim D. Schmett

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Ashley R. Koopmans

A portion of the Claimant's appeal to the Employment Appeal Board consisted of additional evidence which was not contained in the administrative file and which was not submitted to the administrative law judge. While the appeal and additional evidence was reviewed, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

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Kim D. Schmett

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Ashley R. Koopmans

RRA/fnv