

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

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JENNIFER L LUBECK	:	
	:	
Claimant,	:	HEARING NUMBER: 09B-UI-11908
	:	
and	:	
	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
CHEROKEE COUNTY	:	
	:	
Employer.	:	

**NOTICE**

**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**

**DECISION**

**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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Elizabeth L. Seiser

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Monique F. Kuester

AMG/kk

**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. Sheriff Scott discharged the claimant for not informing him that she had talked to a county supervisor about the Stacy McGee's (a co-worker) promotion. The claimant had been told that if the sheriff found out who talked to the supervisor, that person would be fired. The claimant had witnessed Ms. McGee sleeping on the job to which she informed the supervisor. (Tr. 9) The claimant was fired because she was afraid to tell Mr. Scott that she had talked to a supervisor because she feared for her job. The claimant had no prior disciplinary actions against her in her 8-plus years of employment. I would find that her failure to inform Sheriff Scott was an isolated instance of poor judgment that did not rise to the legal definition of misconduct.

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John A. Peno

AMG/kk