

DISSENTING OPINION OF MONIQUE F. KUESTER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. During the claimant's employment, she made excessive productivity errors, excessive personal cell phone calls and e-mails. The record also establishes that the claimant made several derogatory comments about clients, all of which culminated into the employer placing her on a 90-day probationary status. The claimant continued to have issues in light of her warnings and being placed on probation. For this reason, I would conclude that the employer satisfied their burden of proof.

Monique F. Kuester

AMG/ss

A portion of the employer'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 (documents) were reviewed, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

John A. Peno

Elizabeth L. Seiser

Monique F. Kuester

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