

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**SHAWNA CHRISTIANSON**  
Claimant

**APPEAL NO: 07A-UI-07461-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AFFINA LLC**  
Employer

**OC: 07/08/07 R: 03  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Shawna Christianson (claimant) appealed an unemployment insurance decision dated August 3, 2007, reference 01, which held that she was not eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 20, 2007. The claimant participated in the hearing. The employer participated through Lynn Klein, Human Resources Manager and Kim Campbell, Team Leader. Employer's Exhibits One through Three were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-related misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time customer service representative-product specialist for this call center from September 28, 2006 through July 6, 2007. She was discharged for a repeated policy violation after being placed on a final warning. The claimant was counseled for her poor work performance on March 6, 2007 and received a written warning for the same issue on June 13, 2007. The employer testified that part of the claimant's problem with her performance was that she spent too much time on the e-mail system. Only one day before on June 12, 2007 the claimant received a final warning for avoiding calls and for typing a personal email while speaking with a representative. On June 6, 2007 at least ten calls were on hold when the employer discovered the claimant was talking with another representative while having her phone set in a stand-by mode called call work. The employer only allows this mode to be used when an employee needs to finish writing some notes from a recently completed call. The claimant was typing her personal email while on a call on June 7, 2007 but the employer discovered it on June 8, 2007 through the monitoring program. She was placed on a critical probationary period from June 12, 2007 through July 12, 2007 and then would have been placed on an extended probation. On June 21, 2007 the

claimant was placed on another, unrelated final warning for excessive absenteeism. She was discharged on July 6, 2007 for writing another personal email while handling a call.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant was discharged for repeated policy violations after being placed on a final warning. She knew that she was on a final warning and probation for writing personal emails while working but chose to write another one on July 6, 2007 while taking a call. The claimant's repeated violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

**DECISION:**

The unemployment insurance decision dated August 3, 2007, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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