

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RAMONA M GULLION**  
Claimant

**APPEAL NO: 10A-UI-03909-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE CBE GROUP INC**  
Employer

**OC: 02/07/10**  
**Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a representative's March 10, 2010 decision (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. A telephone hearing was held on April 13, 2010. The claimant participated in the hearing. Mary Phillips and Cindy Gade, the director of operations, appeared on the employer's behalf. During the hearing, Employer Exhibits One and Two were offered and admitted as 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:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on June 8, 2009. The claimant worked as a full-time collector. The claimant's job was to call clients for collection purposes. The employer's policy informs employees they can be discharged if they receive three written warnings within six months.

During her employment the claimant received written warnings for attendance issues on September 15 and October 23, 2009. On November 17, the collection manager, Dave Muell, gave the claimant a verbal warning for hanging up on clients. After monitoring the claimant's calls on November 17 and hearing calls that abruptly ended, Muell concluded the claimant hung up on these clients. He warned her on November 17 that the employer's policy did not allow her to hang up on clients. (Employer Exhibit Two.)

In early February 2010, the employer noticed the claimant had a low number of contacts and connect times. This prompted the employer to listen to the claimant's calls. Of the 457 calls the claimant had on February 3, the employer listened to six calls and concluded the claimant had hung up on the clients. (Employer Exhibit One.) Even though the claimant denied she hung up

on any client, the employer gave her a third written warning on February 9, 2010 for hanging up on clients.

As the result of receiving three written warnings in six months, the employer discharged the claimant on February 9, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. 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 propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew of should have known her job was in jeopardy after she received her second written warning in October for attendance issues and then a verbal warning on November 17 for hanging up on clients. Even though the claimant denied she hung up on any client, a preponderance of the credible evidence establishes that she hung up on clients in early February. (Employer Exhibit One.) The claimant's failure to follow the employer's policy amounts to an intentional and substantial disregard of the employer's interests. The claimant committed work-connected misconduct. As of February 7, 2010, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's March 10, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of February 7, 2010. This

disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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