

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERYLE J HENRY
Claimant

APPEAL NO: 09A-UI-15827-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE CBE GROUP INC
Employer

OC: 09/20/09

Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Sheryle J. Henry (claimant) appealed a representative's October 15, 2009 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from The CBE Group, Inc. (employer). After hearing notices were mailed to the parties' last known addresses of record, a telephone hearing was held on November 23, 2009. The claimant participated in the hearing. Mary Phillips appeared on the employer's behalf and presented testimony from two other witnesses, Dave Muell and Cindy Gade. 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:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant most recently started working for the employer on May 1, 2000. She worked full time as collector at the employer's collection agency. Her last day of work was September 18, 2009. The employer discharged her on that date. The stated reason for the discharge was having a third incident within three months, including multiple occurrences of settling accounts that were not authorized for settlement.

On April 9, 2009 the claimant received a first warning for an issue regarding disrespect to a consumer. On May 13 the claimant received a warning for settling two accounts from the employer's client based in New York, which were specifically flagged as not being eligible for settlement. On June 10 she received an additional warning for disrespect to a consumer, and on August 5 she received a final warning, arising from another issue regarding disrespect to a consumer. That warning indicated that if there was an additional disciplinary issue within the six-month period, she was subject to discharge.

On September 15 the claimant again settled an account for the employer's client based in New York that was flagged as not being eligible for settlement. The claimant conceded she must have been handing matters too quickly and did not read the flag on the account. As a result of this further incident the claimant was discharged.

REASONING AND CONCLUSIONS OF LAW:

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 § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; Huntoon, supra; Henry, supra. In contrast, 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. 871 IAC 24.32(1)a; Huntoon, supra; Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's repeated settlement of an account she was not authorized to settle after prior warning including a prior warning for the same offense shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

DECISION:

The representative's October 15, 2009 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of September 18, 2009. This disqualification continues until the claimant 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

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