

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA CHAMBERS

Claimant

APPEAL NO: 13O-UI-11087-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 06/09/13

Claimant: Appellant (1)

Iowa Code § 96.5(2)(a) - Discharge for Misconduct
871 IAC 26.14(7) - Late Call
Iowa Code § 17A.12-3 - Non-Appearance of Party
871 IAC 25.8(5) - Decision on the Record

STATEMENT OF THE CASE:

Jessica Chambers (claimant) appealed an unemployment insurance decision dated July 1, 2013, reference 01, that concluded she was not eligible for unemployment insurance benefits after she was discharged from Casey's Marketing Company (employer) for work-related misconduct. A hearing was scheduled for August 8, 2013 at 12:00 p.m. in appeal number 13A-UI-07858-BT. No hearing was held because the claimant/appellant failed to call in prior to the hearing and before the record was considered closed at 12:10 p.m. Benefits were denied and the claimant appealed the decision to the Employment Appeal Board, who remanded the matter for the limited purpose of "having the administrative law judge issue a new decision which includes details of the Claimant's call and the administrative law judge's explicit consideration of the same."

After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 31, 2013. The claimant participated in the hearing. The employer participated through Store Manager Jean Yamagata.

ISSUE:

The issue is whether the unemployment insurance decision previously entered in this case should be affirmed.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant received the hearing notice prior to the August 8, 2013 hearing which informed her that, "THE JUDGE WILL NOT CALL YOU ON THE DAY OF THE HEARING IF YOU HAVE NOT CALLED THE APPEALS BUREAU IN DES MOINES, IA, AS INSTRUCTED BELOW." When a party calls the Appeals Bureau as instructed, the Appeals Staff documents their number on a computer screen and gives the party a "control number" for verification that they provided their number. This specific number is provided to protect the

party's rights in case a mistake is made by the Appeals Staff. If the party does not receive a call for the hearing at the scheduled time, they are advised to call in after five minutes since there may be a problem. When the party calls in, they must provide the control number to confirm they did call in prior to the hearing.

There was no record of the claimant calling in before the hearing. When an appellant fails to participate, this administrative law judge gives them a window of ten minutes to contact the Appeals Section. The claimant did not call in within ten minutes of the beginning of the hearing and the record was considered closed at 12:10 p.m. She did call the Appeals Section on August 8, 2013 at 12:16 p.m. and the call was recorded but it was not labeled as a late call since it was on the same recording.

On August 8, 2013, the claimant said she called in but was not given a control number. The administrative law judge explained that she would have been given the control number if she had spoken to the Appeals Section. The administrative law judge went on to explain that a ten-minute window is given to all appellants and if the claimant would have called in during that time frame, she could have still participated. After that explanation, the claimant said she did call in within ten minutes and was on hold for five minutes. At that point, the administrative law judge attempted to contact her clerk to inquire as to the call volume since some days parties might have to wait on hold for a period of time. Clerk Sandy Oatts was not available so Clerk Vanessa Zeigler was called with the claimant still on the line. Ms. Zeigler said that she was one of the ones answering the phones that day and the phones had been quiet. The number the claimant called was then confirmed and she called directly into the Appeals Section. The claimant was advised that even if she had been on hold for five minutes, which was not the case according to the Appeals Bureau employee, she still called after the record had closed.

In the hearing today, both parties had called in their telephone numbers and were given control numbers so they were called at the numbers provided. When the claimant was subsequently questioned as to whether she had received a control number when she called in for the August 8, 2013, she said she was not given a control number then and was also not given a control number for the hearing today. The claimant's control number for the hearing today was "78" and she was given that number when her number was provided and documented in the computer system. She then said she just did not write it down and that is what happened the first time also. The claimant was asked when she called in for the August 8, 2013 and she could not provide any detailed information but simply said it was some time after she received the notice. The claimant said this was just a game for the people in the State of Iowa and that she should have never been denied in the first place because she was locked in the office. The claimant disconnected at the end of the hearing but before the record was formally closed.

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The Findings of Fact set forth in the decision in appeal 13A-UI-07858-BT are adopted and incorporated herein as if set forth at length.

REASONING AND CONCLUSIONS OF LAW:

The Reasoning and Conclusions of Law of the administrative law judge in appeal 13A-UI-07858-BT are adopted and incorporated herein as if set forth at length.

DECISION:

The unemployment insurance decision dated July 1, 2013, reference 01, is affirmed. The decision disqualifying the claimant from receiving benefits remains in effect.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css