

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA S TAYLOR
Claimant

APPEAL NO. 07A-UI-07002-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE CBE GROUP INC
Employer

**OC: 06/10/07 R: 03
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Pamela Taylor (claimant) appealed a representative's July 16, 2007 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was discharged from work with The CBE Group (employer) for failure to follow instructions in the performance of her job. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 3, 2007. The claimant participated personally. The employer participated by Greg Brandt, Director of Operations, and Candace Daniels, Supervisor of Human Resources. The employer offered one exhibit, which was marked for identification as Exhibit One. Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on March 21, 2005, as a full-time collector. The employer issued the claimant a verbal warning on January 19, 2007, and written warnings on January 31, and June 8, 2007, for failure to properly document her conversations with debtors. The claimant appeared to exaggerate. The employer warned the claimant that further infractions could result in her termination from employment.

On June 11, 2007, the claimant talked to the mother of a debtor. The mother stated she would make a decision on payment on Friday. The claimant documented the mother would pay \$1,000.00 on Friday. The employer listened to the recording of the conversation. On June 12, 2007, the employer terminated the claimant for documentation falsification.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged for misconduct.

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 of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Falsification of an activity log book constitutes job misconduct. Smith v. Sorensen, 222 Nebraska 599, 386 N.W.2d 5 (1986). The claimant clearly disregarded the standards of behavior that an employer has a right to expect of its employees. The claimant intentionally wrote false statements knowing she could be terminated for doing so. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. The claimant was discharged for misconduct.

DECISION:

The representative's July 16, 2007 decision (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 has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw