

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BROOKE E HARTMAN
Claimant

APPEAL NO. 12A-UI-04989-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE CBE GROUP INC
Employer

OC: 04/08/12
Claimant: Respondent (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, CBE Group, filed an appeal from a decision dated April 27, 2012, reference 01. The decision allowed benefits to the claimant, Brooke Hartman. After due notice was issued a hearing was held by telephone conference call on May 17, 2012. The claimant participated on her own behalf. The employer participated by Senior Vice President of Human Resources Mary Phillips, Director Deahonne Weissenfluh, Supervisor Jessica Gunderson, and Manager Sara Knoll. Exhibits One and Two were admitted into the record.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Brooke Hartman was employed by CBE Group from June 19, 2006 until April 10, 2012 as a full-time client service representative. Her job had changed somewhat not long before the separation. She was to review accounts on a weekly basis, send out letters to the account holders and document the actions on the computer system. Employees received an incentive bonus depending on the number of accounts “worked” during the month.

On March 21, 2012, the employer notified Ms. Hartman her goal for that month had been reduced. On April 5, 2012, the employer was reviewing her account activity for the previous month in order to calculate her bonus. It was then discovered she had duplicated her documentation on 233 different files.

The claimant was not interviewed or provided with documentation prior to being notified of her discharge on April 10, 2012. At the hearing, after having the opportunity to review the documents, Ms. Hartman maintained she had not duplicated the documentation but had only indicated a “review” of a prior action due to the fact she had been working off a list of accounts provided by another employee which duplicated a list of her own off which she had been working previously.

REASONING AND CONCLUSIONS OF LAW:

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 to establish the claimant was discharged for substantial, job-related misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). In the present case the employer has not successfully rebutted the claimant's assertion of inadvertence and good-faith error in judgment. The employer did not assert there were any previous performance problems in the claimant's work history which would demonstrate a pattern of dishonest conduct.

The administrative law judge cannot conclude the employer has met its burden of proof by a preponderance of the evidence and disqualification cannot be imposed.

DECISION:

The representative's decision of April 27, 2012, reference 01, is affirmed. Brooke Hartman is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs