

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**TALIAN M GREEN  
730 RUSSELL RD #5  
WATERLOO IA 50701-4733**

**THE CBE GROUP INC  
PO BOX 900  
WATERLOO IA 50701**

**Appeal Number: 06A-UI-01695-CT  
OC: 01/15/06 R: 03  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Talian Green filed an appeal from a representative's decision dated February 1, 2006, reference 01, which denied benefits based on her separation from The CBE Group, Inc. After due notice was issued, a hearing was held by telephone on March 2, 2006. Ms. Green participated personally. The employer participated by Mary Phillips, Senior Vice President for Human Resources; Denise Bauler, Manager; and Erica Haug, Supervisor. Exhibits One through Five were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Green was employed by The CBE Group, Inc., a

collection agency, from December 27, 2004, until January 13, 2006, as a full-time collector. She was discharged because of her attendance.

Ms. Green was expected to be at her work station at the designated start of her shift. On June 14, 2005, she received a verbal warning because she was not at her seat at 7:00 a.m. as required. She had taken her lunch to an upstairs refrigerator before reporting to her workstation. On August 16, 2005, Ms. Green received a written warning because she was 15 minutes late for work. She had not called to report that she would be late. On October 24, she received another written warning because she was 17 minutes late and had not called to give notice of the intended tardiness. The tardiness was due to daycare issues. On December 1, Ms. Green was ten minutes late because of daycare issues and because of weather conditions. She was given a final verbal warning and advised that she could not miss any further time from work. On January 12, Ms. Green was 23 minutes late because of daycare issues. She did not call to report that she would be late. She was notified of her discharge on January 13, 2006.

Ms. Green's daycare provider is open at 6:00 a.m. If others were not available to take her daughter to daycare, Ms. Green would have to do so herself.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Green was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from receiving benefits if she was excessively absent on an unexcused basis. Absences that are for reasonable cause and are properly reported are considered excused absences. Tardiness in reporting to work is considered a limited absence from work.

Ms. Green was late reporting to work on four occasions from August 15 until January 12, a period of five months. She had been amply warned that her tardiness was jeopardizing her continued employment. In spite of the warnings, she did not take those steps necessary to ensure her timely arrival at work. Absences caused by matters of purely personal responsibility, such as child care, are not excused. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Ms. Green had at least one hour to get her child to daycare before reporting to work. The day care provider was available at 6:00 a.m. and she was not scheduled to be at work until 7:00 a.m.

The administrative law judge concludes that the pattern of tardiness identified herein is sufficient to establish excessive unexcused absenteeism, which is a substantial disregard of the standards an employer has the right to expect. It is concluded, therefore, that disqualifying misconduct has been established. Accordingly, benefits are denied.

#### DECISION:

The representative's decision dated February 1, 2006, reference 01, is hereby affirmed. Ms. Green was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to

ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/kjw