

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANNIE C SEARLE**  
Claimant

**APPEAL NO. 14A-UI-05160-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IH MISSISSIPPI VALLEY CREDIT UNION**  
Employer

**OC: 04/20/14**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated May 13, 2014, reference 01, which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on June 9, 2014. Claimant participated. Participating as a witness for the claimant was Mr. Rodney Searle, Claimant's Spouse. The employer participated by Ms. Morgan Dunn, Senior Human Resource Specialist.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Annie Searle was employed by IH Mississippi Valley Credit Union from May 9, 2011 until April 18, 2014 when she was discharged from employment. Ms. Searle was employed as a full-time service representative and was paid by the hour. Her immediate supervisor was Ms. Carly Thornburg.

Ms. Searle was discharged on April 18, 2014 for repeated errors in her job duties. The final incidents occurred on April 17, 2014 when the claimant received money in the amount of \$2,290.00 without recording or documenting a transaction as required by company policy. The second error that day occurred when the claimant obtained \$300.00 from a company money exchanger without matching the transactions reported by the claimant. The third error took place when the claimant did not note that the money recycle machine did not properly report the transaction to her. All employees had been aware that the machine was malfunctioning and needed to watch out for this malfunction.

At the time of the claimant's discharge, Ms. Searle was under disciplinary action that had been issued to her on March 13, 2014. The claimant had been warned at that time that she had not properly documented a \$1,500.00 deposit. The claimant had indicated that the deposit was in the amount of \$2,500.00. The warning was also issued because the claimant had issued a

debit card without making the proper inquiries. The claimant had failed to note that the employer had a block on the card because of previous fraudulent transactions and the card issued to the member was thus inoperable.

Ms. Searle had previously demonstrated the ability to adequately perform the duties that were required of her and had been trained on the proper procedures to follow while performing her duties.

Ms. Searle had brought to the attention of her supervisor on one occasion that she was suffering from a medical/psychological condition that was causing her to have difficulty in performing her job. The claimant had not asked for an accommodation by the company due to her medical condition and the claimant testified that she had discontinued taking the prescribed medications for the condition. It is the claimant's belief that the employer did not supply sufficient support in the form of having an employee observe her work on a regular basis to insure that she was not making mistakes.

### **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing job disqualifying misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating the claimant but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Department of Job Service*, 364 N.W.2d 262 (Iowa App. 1984). The focus is on deliberate, intentional or culpable acts by the employee. See *Gimbel v. Employment Appeal Board*, 489 N.W.2d 36, 39 (Iowa Ct. of Appeals 1992).

In the case at hand, the claimant had been placed on a final warning on March 13, 2014 for repeated errors in her work. Ms. Searle had been trained and had demonstrated the ability to adequately perform the duties of her job but was not doing so. Her errors caused the employer to lose substantial amounts of time in determining the source of the errors and were considered to be serious violations by the employer of its set procedures. The claimant was discharged when she continued to have substantial errors in her work and continued to fail to follow established procedures.

Although the administrative law judge is mindful that Ms. Searle believes that her errors were caused by a medical/psychological condition, the administrative law judge notes that the claimant did not request an accommodation from her employer for this reason and the claimant testified that although she had been provided prescription medications for the malady, she discontinued taking the prescriptions that were prescribed to alleviate the condition. Because the claimant had not requested an accommodation and had not continued to take the medications prescribed that were affecting her ability to properly perform her job, the administrative law judge concludes that the employer has sustained by a preponderance of the evidence that the claimant's discharge was disqualifying. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

**DECISION:**

The representative's decision dated May 13, 2014, reference 01, is affirmed. Claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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