

Lead Worker Duties

- Review all decisions from EAB and higher authorities for consistency in application of the law
- Track and report all DOL required metrics
- Participate in agency wide committees and process improvement teams
- Implement new technology systems such as Clear 2 There
- Monitor clerk workflow for accuracy and timeliness
- Develop ALJ and clerk manual for training
- Participate in mandatory DOL quality reviews
- Answer general questions that come in regarding appeals processes from the public and internal staff
- Review remands to comply with the EAB remand orders
- Provides solutions for ALJ computers with issues
- Train new clerical staff
- Attend appeals claims meetings
- Targeted training for fact-finders
- Review old case lists
- Develop consistency in word processor work flow
- Develop new "99 List"
- Draft administrative rules
- Liaison with Employment Appeal Board and DIA
- Coordinate ALJ in-house training
- Represent UI Appeals in national studies
- Develop Spanish language UI Appeal forms

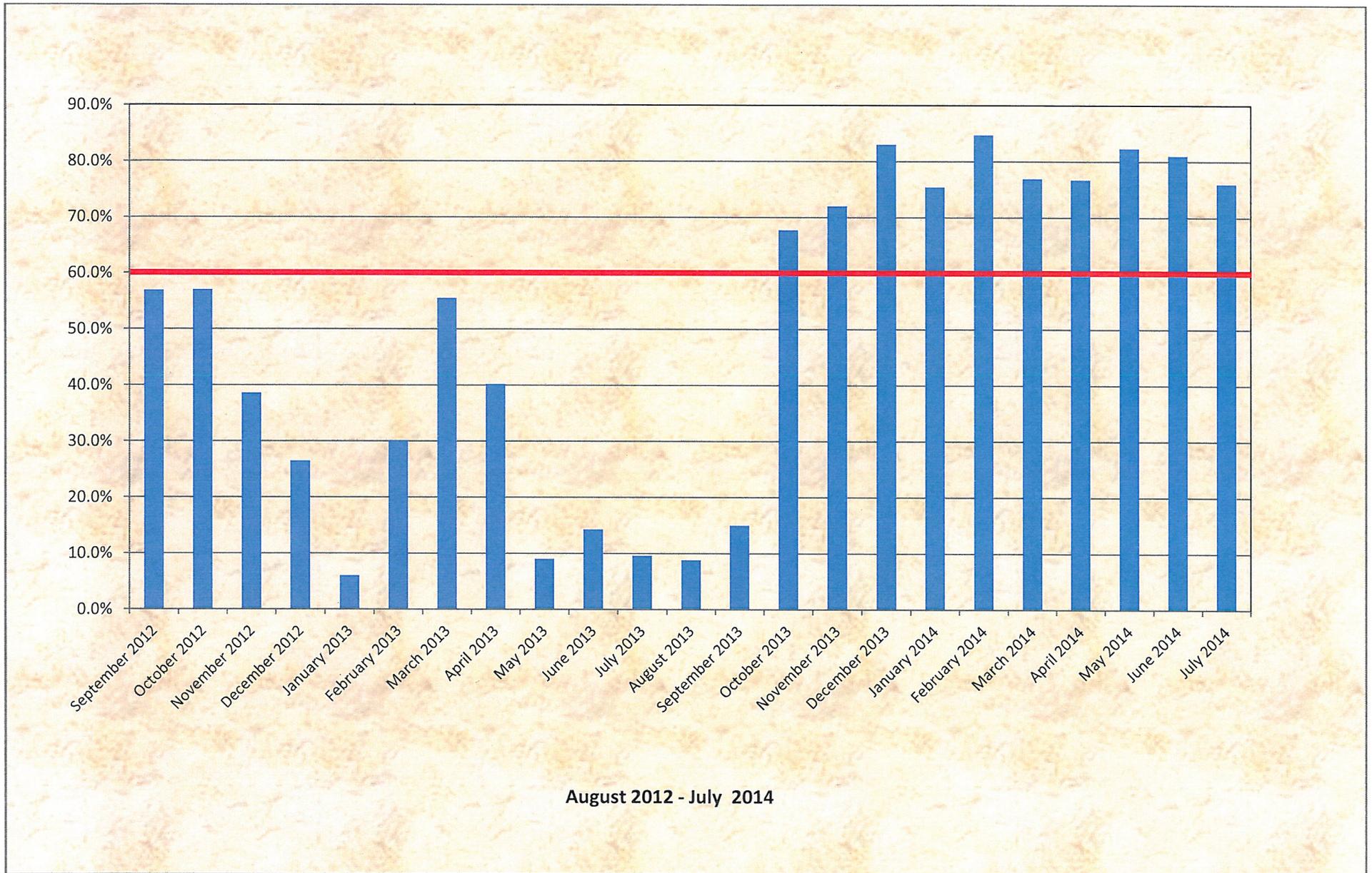
TOTAL CASES HEARD BY ALJ

ALJ	Total 2012	Jan-Jun 2013
ACKERMAN	929	557
ANDERSON	874	0
DONNER	866	485
ELDER	912	341*
HENDRICKSMEYER	1225	590
HILLARY	815*	357
LEWIS	1047	536
MORMANN	1286	589
NICE	1131	511
SHEETZ	1408*	773*
SEECK	963	400
STEPHENSON	1072	494
TIMBERLAND	1136	476
WALSH	157	97
WISE, D.	1069	575
WISE, S.	931	471

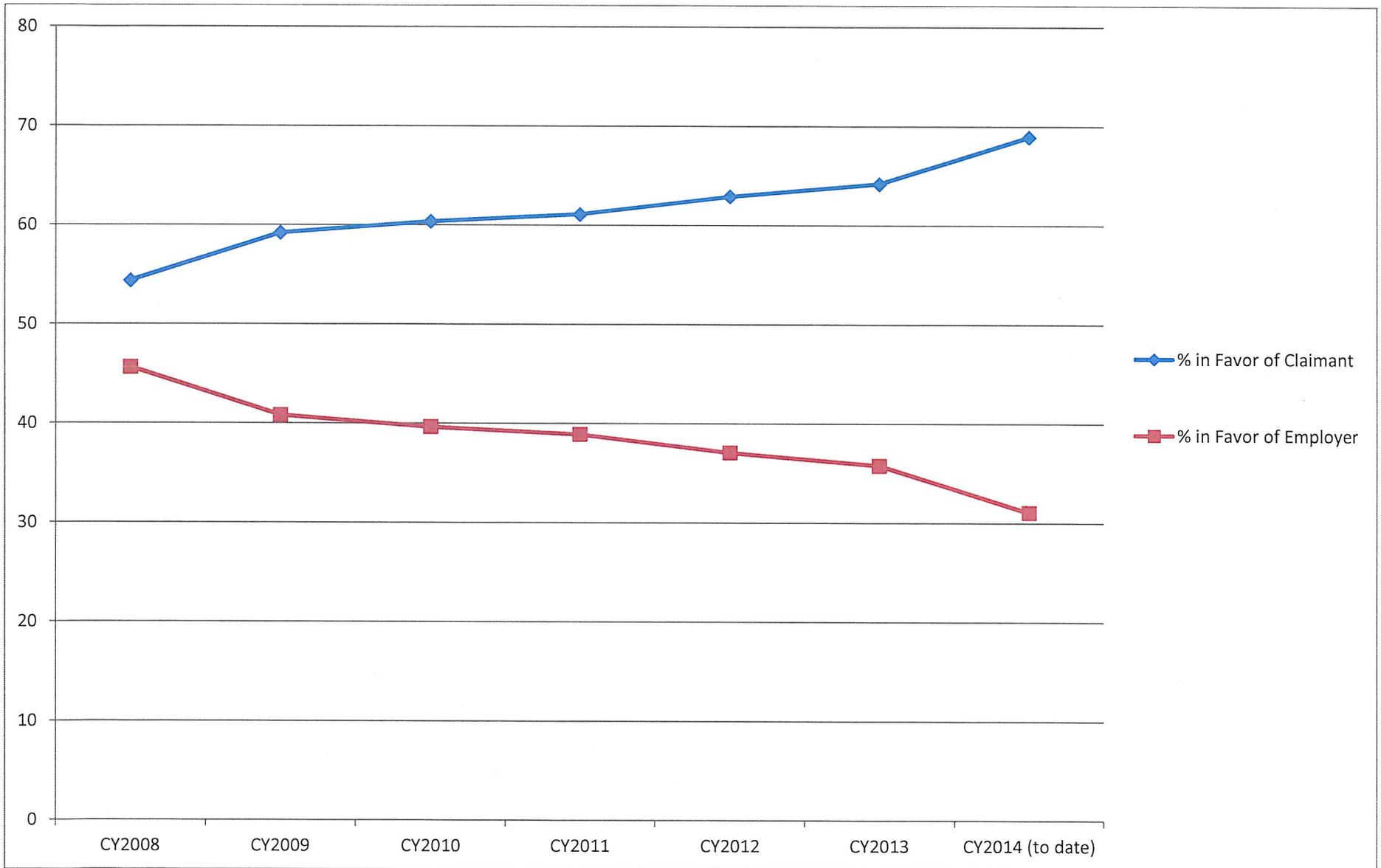
$$157 \times 2 = 314 \quad 97 \times 2 = 194$$

UI Appeals Bureau

Timeliness and Quality Report with 30 Days or Less



UI Appeal Cases Reversed in Favor of Claimants versus Employers



Patty Kumbera vs Outcomes Inc.

- Claimant filed an appeal filed on March 24, 2014
- Both parties represented by counsel, who engaged in extensive discovery requests
- Case consistently postponed at parties request due to legal counsel's specific requests
- Parties requested an in-person hearing on a Friday
- Originally scheduled for Judge Mormann on April 16th
- Rescheduled for May 13th for Judge Mormann
- Rescheduled for May 12th for Judge Mormann
- Rescheduled for June 2nd with Judge Ackerman
- Rescheduled for August 8th for Judge Bennett, because he had an opening at the time. The case was 4 months and should not be rescheduled again
- Judge Bennett discovered a conflict with one of the parties and recused himself
- Judge Bennett and Judge Scheetz switched cases that were scheduled at the same time to meet the needs of the parties

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209

RS per Employer Mus 12015

NOTICE THAT AN APPEAL HAS BEEN FILED AND NOTICE OF HEARING
65-5513 (05,11) 3090758

KUMBERA, PATTY, A
6749 RIVER BEND DR
JOHNSTON IA 50131

OUTCOMES INCORPORATED
505 MARKET ST STE 200
WEST DES MOINES IA 50266

CHARLES GRIBBLE
ATTORNEY AT LAW
2910 GRAND AVENUE
DES MOINES IA 50312 4205

IN THE MATTER OF THE CLAIM OF:

CLAIMANT NAME KUMBERA, PATTY, A	
SOCIAL SECURITY NUMBER [REDACTED]	APPELLANT 1 1 - CLAIMANT 2 - EMPLOYER 3 - OTHER
APPEAL NUMBER 14A-UI -03221-M	
IOWA EMPLOYMENT SECURITY LAW SECTION(S) AND AGENCY RULES ARE: 96.5(2)A, 96.5(1)	
DATE MAILED 04-02-14 77 DES MOINES	

This hearing is to be held under the legal authority and jurisdiction of Chapters 17A (Administrative Procedure Act) and 96 (Employment Security). CODE OF IOWA

ATTENTION EMPLOYER AND CLAIMANT: An appeal by an employer will not interrupt payment of unemployment insurance benefits: HOWEVER, a decision in favor of the employer can require the repayment of benefits by the claimant in these cases, contributory accounts would not be charged for such resulting overpayments.

You may represent yourself at the hearing or you may obtain a lawyer or other interested party to do so, provided there is no expense to Iowa Workforce Development. If you wish to be represented by a lawyer, you may retain the services of either a private attorney or one whose services are paid for with public funds. Both are listed in the yellow pages of the telephone book.

ATTENTION CLAIMANT: If you are unemployed, it is important that you continue reporting until you are notified of the final decision.

SCHEDULING INFORMATION	
DATE:	WED APR 16, 2014
IOWA TIME:	1:00 PM
LOCATION:	150 DES MOINES #103 DES MOINES, IOWA 50309-1836

When you appear for the hearing at the time and place specified above, **you should ask immediately where to go for the hearing. Do not wait in line.** You must be prepared to present your case at the time specified in this notice.

The following matters have been asserted:
WAS THE SEPARATION A LAYOFF, DISCHARGE FOR MISCONDUCT OR VOLUNTARY QUIT WITHOUT GOOD CAUSE?

IOWA WORKFORCE DEVELOPMENT

Unemployment Insurance Appeals Bureau

1000 East Grand Avenue

Des Moines, Iowa 50319-0209

NOTICE THAT AN APPEAL HAS BEEN FILED AND NOTICE OF HEARING
65-5513 (05.11) 3090758

KUMBERA, PATTY, A
6749 RIVER BEND DR
JOHNSTON IA 50131

OUTCOMES INCORPORATED
505 MARKET ST STE 200
WEST DES MOINES IA 50266

CHARLES GRIBBLE
PARRISH KRUIDENIER DUNN BOLES
GRIBBLE GENTRY & FISHER LLP
2910 GRAND AVE
DES MOINES IA 50312 4205

IN THE MATTER OF THE CLAIM OF:

CLAIMANT NAME KUMBERA, PATTY, A		
SOCIAL SECURITY NUMBER [REDACTED]	APPELLANT 1	1 - CLAIMANT 2 - EMPLOYER 3 - OTHER
APPEAL NUMBER 14A-UI -03221-M		
IOWA EMPLOYMENT SECURITY LAW SECTION(S) AND AGENCY RULES ARE: 96.5(2)A, 96.5(1)		
DATE MAILED 04-18-14 77 DES MOINES		

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ATTENTION CLAIMANT: If you are unemployed, it is important that you continue reporting until you are notified of the final decision.

SCHEDULING INFORMATION	
DATE:	TUE MAY 13, 2014
IOWA TIME:	8:30 AM
LOCATION:	150 DES MOINES #103 DES MOINES, IOWA 50309-1836

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IOWA WORKFORCE DEVELOPMENT

Unemployment Insurance Appeals Bureau

1000 East Grand Avenue

Des Moines, Iowa 50319-0209

*** CORRECTED NOTICE ***

NOTICE THAT AN APPEAL HAS BEEN FILED AND NOTICE OF HEARING
65-5513 (05.11) 3090758

IN THE MATTER OF THE CLAIM OF:

CLAIMANT NAME KUMBERA, PATTY, A		
SOCIAL SECURITY NUMBER [REDACTED]	APPELLANT I	1 - CLAIMANT 2 - EMPLOYER 3 - OTHER
APPEAL NUMBER #14A-UI - 03221-M		
IOWA EMPLOYMENT SECURITY LAW SECTION(S) AND AGENCY RULES ARE: 96.5(2)A, 96.5(1)		
DATE MAILED 04-25-14 77 DES MOINES		

KUMBERA, PATTY, A
6749 RIVER BEND DR
JOHNSTON IA 50131

OUTCOMES INCORPORATED
505 MARKET ST STE 200
WEST DES MOINES IA 50266

CHARLES GRIBBLE
PARRISH KRUIDENIER DUNN BOLES
GRIBBLE GENTRY & FISHER LLP
2910 GRAND AVE
DES MOINES IA 50312 4205

OC - 02/16/2014
Appeal date 03/24/14
And 5 03/24/14

06-02 B
1:30 pm

This hearing is to be held under the legal authority and jurisdiction of Chapters 17A (Administrative Procedure Act) and 96 (Employment Security). CODE OF IOWA

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ATTENTION CLAIMANT: If you are unemployed, it is important that you continue reporting until you are notified of the final decision.

SCHEDULING INFORMATION	
DATE:	MON MAY 12, 2014
IOWA TIME:	1:00 PM
LOCATION:	150 DES MOINES #103 DES MOINES, IOWA 50309-1836

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IOWA WORKFORCE DEVELOPMENT
 Unemployment Insurance Appeals Bureau
 1000 East Grand Avenue
 Des Moines, Iowa 50319-0209

NOTICE THAT AN APPEAL HAS BEEN FILED AND NOTICE OF HEARING
 65-5513 (05.11) 3090758

KUMBERA, PATTY, A
 6749 RIVER BEND DR
 JOHNSTON IA 50131

OUTCOMES INCORPORATED
 505 MARKET ST STE 200
 WEST DES MOINES IA 50266

CL
 ER-
 Ann Kendall
 P/Pd by
 Bon 5/30
 as per
 CL request

DAVID GOLDMAN
 ATTORNEY AT LAW
 501 S.W. 7TH ST, STE 1
 DES MOINES IA 50319

IN THE MATTER OF THE CLAIM OF:

CLAIMANT NAME KUMBERA, PATTY, A		
SOCIAL SECURITY NUMBER [REDACTED]	APPELLANT 1	1 - CLAIMANT 2 - EMPLOYER 3 - OTHER
APPEAL NUMBER 14A-UI -03221-B		
IOWA EMPLOYMENT SECURITY LAW SECTION(S) AND AGENCY RULES ARE: 96.5(2)A, 96.5(1)		
DATE MAILED 05-20-14 77 DES MOINES		

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SCHEDULING INFORMATION	
DATE:	MON JUN 02, 2014
IOWA TIME:	1:30 PM 8/8 900 5-2
LOCATION:	150 DES MOINES #103 DES MOINES, IOWA 50309-1836

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IOWA WORKFORCE DEVELOPMENT

Unemployment Insurance Appeals Bureau

1000 East Grand Avenue

Des Moines, Iowa 50319-0209

NOTICE THAT AN APPEAL HAS BEEN FILED AND NOTICE OF HEARING
65-5513 (05.11) 3090758

KUMBERA, PATTY, A
6749 RIVER BEND DR
JOHNSTON IA 50131

OUTCOMES INCORPORATED
505 MARKET ST STE 200
WEST DES MOINES IA 50266

DAVID GOLDMAN
ATTORNEY AT LAW
501 S.W. 7TH ST, STE 1
DES MOINES IA 50319

ANN HOLDEN KENDELL
ATTORNEY AT LAW
666 GRAND AVE STE 2000
DES MOINES IA 50309 2510

IN THE MATTER OF THE CLAIM OF:

CLAIMANT NAME KUMBERA, PATTY, A		
SOCIAL SECURITY NUMBER [REDACTED]	APPELLANT 1	1 - CLAIMANT 2 - EMPLOYER 3 - OTHER
APPEAL NUMBER 14A-UI -03221-B2		
IOWA EMPLOYMENT SECURITY LAW SECTION(S) AND AGENCY RULES ARE: 96.5(2)A, 96.5(1)		
DATE MAILED 07-18-14 77 DES MOINES		

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SCHEDULING INFORMATION	
DATE:	FRI AUG 08, 2014
IOWA TIME:	9:00 AM
LOCATION:	150 DES MOINES #103 DES MOINES, IOWA 50309-1836

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IOWA WORKFORCE DEVELOPMENT

Unemployment Insurance Appeals Bureau

1000 East Grand Avenue

Des Moines, Iowa 50319-0209

*** CORRECTED NOTICE ***

IN THE MATTER OF THE CLAIM OF:

CLAIMANT NAME KUMBERA, PATTY, A

NOTICE THAT AN APPEAL HAS BEEN FILED AND NOTICE OF HEARING
65-5513 (05.11) 3090758

**KUMBERA, PATTY, A
6749 RIVER BEND DR
JOHNSTON IA 50131**

SOCIAL SECURITY NUMBER [REDACTED]	APPELLANT 1	1 - CLAIMANT 2 - EMPLOYER 3 - OTHER
APPEAL NUMBER 14A-UI -03221-S2		
IOWA EMPLOYMENT SECURITY LAW SECTION(S) AND AGENCY RULES ARE: 96.5(2)A		
DATE MAILED 08-11-14 77 DES MOINES		

**OUTCOMES INCORPORATED
505 MARKET ST STE 200
WEST DES MOINES IA 50266**

**DAVID GOLDMAN
ATTORNEY AT LAW
501 S.W. 7TH ST, STE 1**

DES MOINES IA 50319

**ANN HOLDEN KENDELL
ATTORNEY AT LAW
666 GRAND AVE STE 2000**

DES MOINES IA 50309 2510

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WAS THE SEPARATION A LAYOFF, DISCHARGE FOR MISCONDUCT OR VOLUNTARY QUIT WITHOUT GOOD CAUSE?

APLE S2 080814 WEEKLY ITINERARY FOR BETH SCHEETZ 13:19:10 08/27/2014
 TIME APPEAL # APPELLANT RESPONDENT LOC

FRIDAY AUGUST 08, 2014

08:00 14AUI 07357 KINCAID, BRIAN, D PACKERS SANITATION SERVIC TE
 09:00 14AUI 03221 KUMBERA, PATTY, A OUTCOMES INCORPORATED 77
 11:00 14AUI 07355 FAMILY DOLLAR STORES OF I JUAREZ, AMANDA, J TE

MONDAY AUGUST 11, 2014

08:00 14AUI 07389 MURRAY, MONICA, L DOLGENCORP LLC TE
 08:05 14AUI 07390 MURRAY, MONICA, L TE
 09:00 14AUI 07406 CASON, NICHOLE, R TWEEN BRANDS INC TE
 10:00 14AUI 07411 KINNEY, KENIESHA, D AQUA-CARE MARKETING, L.L. TE
 11:00 14AUI 07385 DES MOINES - HOLY FAMILY OKWARAMOI, JAMES, G TE
 12:00 14AUI 07159 FYE, RACHEL, A S-L SNACKS IA, LLC. TE
 01:00 14AUI 07407 ENGINEERED PRODUCTION E KROEGER, LEONARD, W TE
 02:00 14AUI 07410 OLSON, MARTINA, M IOWA JEWISH SENIOR LIFE C TE
 02:00 14AUI 07379 ROWLAND, RICHARD, W TE

TUESDAY AUGUST 12, 2014

08:00 14AUI 07445 COMPASS GROUP USA INC CUNNINGHAM, PATRIA, M TE

PRESS PF8 FOR NEXT PAGE

COMMAND==>

HILLATK 1712

F1=HELP F3=EXIT

F8=FRWD

APLE B2 080814 WEEKLY ITINERARY FOR BLAIR BENNETT 11:21:17 08/27/2014
TIME APPEAL # APPELLANT RESPONDENT LOC

FRIDAY AUGUST 08, 2014

09:00 14AUI 07356 DM SERVICES INC WILLIAMS, POLLY, A TE
10:00 14AUI 07353 INSIGHT PARTNERSHIP GROUP WASHINGTON, ROBIN, L TE
11:30 14AUI 07324 WALKER, HOWARD, T S-L SNACKS IA, LLC. TE

MONDAY AUGUST 11, 2014

09:30 14AUI 07416 SCHURMAN, KATHRYN, L TE
10:00 14AUI 07418 BENTLEY, REECETTA, L TE
10:30 14AUI 07442 HIME, JULIA, A FLORILLI TRANSPORTATION L TE
11:30 14AUI 07450 MOSS, CAROL, D FOODS INC TE
01:00 14AUI 07451 SUPINO, COURTNEY, S IOWA CORRECTIONAL INSTITU TE
02:00 14AUI 07454 LYNE, TISHA, S WELLS FARGO BANK NA TE
03:00 14AUI 07453 VIDIMOS, LAUREN, M "ROMANTIX INC TE

TUESDAY AUGUST 12, 2014

08:30 14AUI 07458 GIZA, JASON AMERICAN EAGLE AIRLINES I TE

PRESS PF8 FOR NEXT PAGE

COMMAND==>

HILLATK 1712

F1=HELP F3=EXIT

F8=FRWD

IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

PATTY A KUMBERA
6749 RIVER BEND DR
JOHNSTON IA 50131

OUTCOMES INC
505 MARKET ST STE 200
WEST DES MOINES IA 50266

DAVID GOLDMAN
ATTORNEY AT LAW
501 SW 7TH ST STE J
DES MOINES IA 50319

ANN KENDELL
ATTORNEY AT LAW
666 GRAND AVE STE 2000
DES MOINES IA 50309-2510

APPEAL NO. 14A-UI-03221-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from mailing date below the administrative law judge's signature on the last page of the decision, 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:

*Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319*

OR

Fax Number: (515)281-7191

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.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

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.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

ONLINE RESOURCES:

UI Appeals: <http://www.iowaworkforce.org/ui/appeals/index.html>

National Career Readiness Certificate through the Skilled Iowa Initiative: <http://skillediowa.org/>

Becoming a member employer through Skilled Iowa and utilizing internships: <http://skillediowa.org/>

Facts About Unemployment Handbook: <http://www.iowaworkforce.org/ui/handbook.htm>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

<http://www.iowaworkforce.org/ui/uiemployers.htm>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATTY A KUMBERA
Claimant

APPEAL NO. 14A-UI-03221-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

OUTCOMES INCORPORATED
Employer

OC: 02/16/14
Claimant: Appellant (2)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Patty Kumbera (claimant) appealed a representative's March 21, 2014, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Outcomes (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for August 8, 2014, in Des Moines, Iowa. The claimant was represented by David Goldman, Attorney at Law, and participated personally. Tod Kumbera observed the hearing. The employer was represented by Ann Kendell, Attorney at Law, and participated by Thomas Halterman, Chief Executive Officer; Brand Newland, Vice President of Business Development; and Cynthia Kesteloot, Vice President of Technology. The claimant offered and Exhibits A and B were received into evidence. The employer offered and Exhibits One, Two, Three, Four, and Five were received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 8, 1999, as a full-time vice president of operations and was known as the "face of the company." The claimant and the chief executive officer started the company with nine other people and a board of directors (Board). The company grew to have an executive committee. The claimant signed for receipt of the employer's code of conduct. The code of conduct has a definition for insubordination. "Insubordination: The refusal to carry out a supervisor's order, using insolent or obscene language, and otherwise undermining a supervisor's authority. Insubordination cannot be tolerated and may result in disciplinary action up to and including immediate termination."

The claimant was among the top five shareholders of the company. In 2010, an investor was thinking of investing in the company and looking at new leadership. The claimant encouraged bringing new experts into the company if there was a new investor. The CEO thought the claimant was interested in being CEO and considered this to be a coup attempted. As a result

she was given a diminished role in the company as a chief operating officer. The CEO was the claimant's supervisor. The Board was the CEO's supervisor. For fifteen years the claimant had an open relationship with the Board.

The CEO had a project he believed was important to the future of the company and he wanted it passed. The claimant thought it would be detrimental to the company. She voiced her opinion in the executive committee. The CEO told the claimant she could not speak to the Board any more. On December 20, 2013, the CEO issued the claimant a verbal warning for taking a matter to the board now that she was forbidden to talk to the Board. The CEO notified the claimant that further infractions could result in termination from employment.

The CEO issued the claimant an e-mail written warning on January 2, 2014. The CEO told the claimant that the CEO was the only staff member with a direct line of reporting to the Board. The claimant asked the CEO to poll the Board about whether she had the ability to communicate with the Board. The CEO told the claimant if she did not respond to the e-mail saying that she would respect and abide by his instructions by January 3, 2014, it could result in further disciplinary action.

On January 6, 2014, the CEO revoked the claimant's membership on the executive committee for not responding. One board member asked the claimant to inform the Board what was happening. The Board was a higher authority than the CEO. After hours on January 7, 2014, the claimant sent an e-mail to board members informing them of her situation, seeking clarification, and requesting a conversation with the Board. On January 8, 2014, the CEO found out about the email and suspended the claimant with pay for insubordination. She was to perform no work for the company. The CEO told the claimant he would be putting together a severance package. Two Board members told the claimant they agreed the claimant should talk to the Board. One member of the Board said he was not upset by the e-mail. The fourth and last member of the Board did not discuss the e-mail with the claimant.

On January 13, 2014, the CEO met with the claimant at Panera. When the claimant walked in the CEO said that it had been fifteen years but they knew it had to come to an end. The claimant was dismayed. She said she did not think it would end that way. She thought they would retire or sell the business. The CEO and the claimant talked about a fair and reasonable separation. Somehow the conversation turned to a different topic and the CEO asked if she would ever want to return. The claimant said she would not unless things changed and they could make decisions together.

Between January 13 and February 13, 2014, the claimant and CEO negotiated a severance package. On February 13, 2014, the CEO sent the claimant a letter of termination. The letter states the claimant was terminated for refusing to return to work without an agreement for joint leadership. The Board did not indicate it wished to terminate the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not 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.

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).

Iowa Admin. Code r.871-24.32(8) provides:

(8) Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

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). The employer must establish not only misconduct but that there was a final incident of misconduct which precipitated the discharge. The last incident provided by the employer occurred on January 13, 2014. The employer had not decided to terminate prior to meeting with the claimant. The claimant was prohibited for working during her suspension. The CEO started the conversation with ending the claimant's employment. The CEO argues the claimant was insubordinate when she said she would not return unless things changed. The claimant did not make this comment until after she was terminated. In addition, the comment was made during a time when the claimant was not working, on suspension, and at a restaurant. The employer did not provide any evidence of job-related misconduct. The employer did not meet its burden of proof to show misconduct. Benefits are allowed.

DECISION:

The representative's March 21, 2014, decision (reference 01) is reversed. The employer has not met its proof to establish job-related misconduct. Benefits are allowed.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css