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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Administrative Law Judge
Case No.: 14-ALJ-22-0405-AP

Billie D. Mueller, ...Appellant

v.

South Carolina Department of Employment and Workforce, and Ebtron, Inc. Respondent's

Appellate Case No.: 2014-002489

AMENDED RECORD ON APPEAL

Billie D. Mueller
PO Box 98
Davis Station, SC 29041
Telephone: 803-410-6935
Appellant has no Attorney

Sandra Grooms
Office of General Counsel
SC Dept. of Employment and Workforce
PO Box 8597
Columbia, SC 29202
(803) 737-2666
Attorney for Respondent, SCDEW

Kristine L. Cato
Blair Cato Pickens Casterline, LLC
700 Huger Street, Suite 102
Columbia, SC 29201
(803) 400-8600
Attorney for Respondent, Ebtron, Inc.

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SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE

DECISION OF APPEAL TRIBUNAL

Hearing Date: May 27, 2014

BILLIE D. MUELLER



CLAIMANT

EBTRON, INC.
1663 HIGHWAY 701 S
LORIS, SC 29569

EMPLOYER

APPELLANT: Claimant

SS NO: 

APPEARANCES

FOR THE
CLAIMANT: Present

FOR THE
EMPLOYER: One witness

FINDINGS OF FACT

The issue in this case is whether the claimant was discharged for misconduct.

The claimant appealed the claims adjudicator's determination mailed April 22, 2014, which held the claimant *disqualified from receiving benefits for twenty (20) weeks, effective March 30, 2014 through August 16, 2014, along with a corresponding reduction in the maximum potential benefit amount upon a finding the claimant was discharged for misconduct.*

The claimant worked from March 15, 1988 to April 4, 2014, with the subject employer, most recently as a sales administrative supervisor. The claimant was discharged for not performing job duties to the satisfaction of the employer. The last incident occurred when the claimant did not process paperwork pertaining to sales associates commissions since the middle of 2013. The employer stated this led to errors in the amount of \$55,000. The employer also stated the claimant argued with superiors and had been previously placed on probation.

REASONS

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty (20) weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of his employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.

In this instance the Tribunal finds the claimant did not perform her duties to the best of her ability. By not processing the commission paperwork in a timely fashion after the claimant had already been previously suspended for work performance showed a disregard for the employer's reasonable expectation. As a result the Tribunal finds the claimant was discharged for misconduct.

DECISION

The Tribunal hereby holds the claimant disqualified from receiving benefits for twenty (20) weeks, effective, March 30, 2014 through August 16, 2014, along with a corresponding reduction in the maximum potential benefit amount, upon a finding the claimant was discharged for misconduct.

This decision affirms the determination mailed August 16, 2014.

This will be the final decision of the Agency, unless you file an appeal to the Appellate Panel setting forth in detail the grounds for appeal within ten (10) calendar days, including weekends and holidays, from the mailing date of this decision. If the tenth day falls on a Saturday, Sunday or holiday, the appeal period is extended to the next business day. Your appeal may be filed by mail addressed to "Appellate Panel, Post Office Box 1752, Columbia, South Carolina, 29202", or by fax at 803.737.3166. For additional information on filing an appeal, visit our web site at www.dew.sc.gov/appeals.asp.



Kennen L. Shortt
Administrative Hearing Officer

KLS:cgm

Decision Mailed: 05/28/14

Mailed on the above Date By: cgm

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina

IN THE MATTER OF THE CLAIM OF:

Billie D. Mueller



Claimant SSN:



Ebtron, Inc.

1663 Highway 701 South

Loris, SC 29569

Liabe Employer

Appellant: Claimant

APPELLATE PANEL
DECISION

The claimant appealed Appeal Tribunal Decision 2014-A-8136 to the Appellate Panel. The Tribunal held the claimant disqualified from benefits upon finding she was discharged for misconduct. This decision affirmed the claims adjudicator's determination.

The Appellate Panel issued its decision upon review of the record on appeal.

DECISION

Appeal Tribunal Decision 2014-A-8136 is affirmed. The claimant is disqualified from benefits for twenty (20) weeks, from March 30, 2014, to August 16, 2014, with a corresponding monetary reduction, upon finding she was discharged for misconduct connected with the employment.

The claimant worked from March 15, 1988, to April 4, 2014, most recently as a sales administrative supervisor. She was discharged for failing to properly perform her job duties. The claimant's performance had fallen below the employer's expectations in 2012. She was warned about her performance during her 2013 performance review, held in February 2014. The claimant was placed on a performance improvement plan and was told any further failure to complete required job duties would result in termination. The employer witness states the claimant was required to process bonuses for sales employees during 2013. After a new project began in the middle of 2013, the claimant did not process any bonuses associated with that project.

The employer discovered over \$55,000.00 in unpaid bonuses after the performance review held in February 2014, and the claimant was terminated. The claimant asserts her supervisor yelled at her and she yelled back, but states she did nothing for which she should have been terminated. She acknowledges she was not proactive in dealing with the bonuses, and states that project fell by the wayside. She asserts the February performance review was not a warning, contending her only performance warning was from 1988.

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of an employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.

The record establishes the claimant failed to complete her job duties to the employer's satisfaction. The claimant knew or should have known she was required to complete her tasks related to disbursing the bonuses in an expeditious manner. The six (6) month delay in bonuses was unreasonable, and the employer's requirement to have all employee bonus related tasks completed more efficiently was reasonable. The claimant deliberately disregarded the standard of behavior the employer had the right to expect. Therefore, we find the claimant was discharged for misconduct connected with the employment. The Appeal Tribunal decision is affirmed.

In her appeal to the Appellate Panel, the claimant attempted to present additional statements and documents pertaining to her separation.¹ As a board of review, the Appellate Panel is confined to the record developed by the Appeal Tribunal, and cannot consider additional information which was not previously presented in the evidentiary hearing before the Tribunal. To the extent that the submission of additional statements and documents can be construed as a request for remand, we find the parties were provided with proper notice of the Appeal Tribunal hearing and the record was fully developed by the hearing officer. Further, the claimant asserts the hearing officer was inattentive to the facts during the hearing. After a careful review of the record, we find the hearing officer fully developed all issues related to the

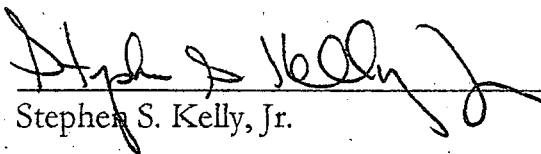
¹ The claimant submitted an Agreement and Release signed by both the claimant and the employer, which states the claimant will be paid a severance. We find this Agreement and Release deals primarily with post separation litigation, and is therefore not a settlement agreement for the purposes of determining the claimant's eligibility for unemployment benefits.

claimant's separation. She was given the opportunity to present additional evidence before the record was closed and declined the opportunity. Therefore, we find no cause to remand this case for further proceedings.

**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**



E. B. Ayers

Tim Dangerfield

Stephen S. Kelly, Jr.

Review Date: 07/02/14
Date Mailed: 07/02/14
Mailed By: AG

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina

Transcript of Testimony

Before

Kennen L. Shortt, Administrative Hearing Officer

Billie D. Mueller

) CLAIMANT

[REDACTED]

Claimant SSN: [REDACTED]

Ebtron, Incorporated
1663 Highway 701 South
Loris, SC 29569

) SEPARATING EMPLOYER
)
)

PLACE OF HEARING: Via Teleconference
SC Department of Employment and
Workforce
631 Hampton Street
Columbia, SC 29201

DATE OF HEARING: May 27, 2014

APPEARANCES:

For Claimant: Participated

For Employer: One witness

TESTIFYING WITNESSES

CLAIMANT:

Billie D. Mueller

EMPLOYER WITNESS:

Greg McBride, HR Manager

1 BEFORE: Kennen L. Shortt, Administrative Hearing Officer

2
3
4 HEARING OFFICER'S PREAMBLE

5
6
7 ALL WITNESSES SWORN

8
9
10 I'll initially ask you questions and give you an opportunity to respond. If
11 there's anything further you want to tell me you can do provided that it's
12 relevant to this hearing. I'll ask that you please present any documents or
13 exhibits that you feel should be considered. You'll be notified of a decision
14 just as soon as possible. It will be mailed to your address of record. Ms.
15 Mueller I have your address of record as [REDACTED] is
16 that correct?

17
18
19 CLAIMANT: Yes sir.

20
21
22 HEARING OFFICER: And Mr. McBride I have the address of
23 record for Ebtron as 1663 Highway 701 South, Loris, SC, 29569, is that
24 correct?

25
26
27 EMPLOYER WITNESS: That's correct.

28
29
30 HEARING OFFICER: Thank you. Let the record show that
31 both addresses are correct. Since this has been ruled a discharge I'll begin
32 testimony with the employer. Before I go any further Mr. McBride, do you
33 have any questions about the procedures or the issues in this case?

34
35
36 EMPLOYER WITNESS: No I don't.

37
38
39 HEARING OFFICER: And Ms. Mueller, do you any questions
40 about the procedures or the issues?

1 CLAIMANT: No, I don't think so.
2
3

4 HEARING OFFICER: Okay. What I have here is a copy of the
5 determination letter that was mailed on April 22, 2014. It states "You were
6 discharged from your job with your most recent bona fide employer for
7 failing to perform assigned work to the satisfaction of your employer.
8 Failure to perform in a manner that your employer had a reasonable right to
9 expect is a discharge for misconduct in connection with the work under the
10 SC Code Section 41-35-120(2)(A). You are disqualified for twenty weeks.
11 Your maximum benefits are reduced by twenty times your weekly benefit
12 amount. Separation was a result of failure to process paperwork since the
13 middle of 2013." I'll label this as Agency Exhibit #1. Is this what you are
14 appealing today Ms. Mueller?
15

16
17 CLAIMANT: Yes sir.
18
19

20 HEARING OFFICER: Okay. What I also have is some fact
21 finding information, this information compiled from the employer and from
22 the claimant. I'll go ahead and label it as Agency Exhibit #2, and go ahead
23 and place that into evidence at this time. Okay, I'll go ahead and call you to
24 testify Mr. McBride. If you will start by just stating your name for me and
25 then give me a correct spelling of it please.
26
27

28 EMPLOYER WITNESS: It's Greg McBride, G-r-e-g M-c-B-r-i-d-e.
29
30

31 HEARING OFFICER: Okay, Mr. McBride you told me that
32 you're the human resources manager, is that correct?
33
34

35 EMPLOYER WITNESS: That is correct.
36
37

38 HEARING OFFICER: Okay, and what was the claimant, Ms.
39 Mueller's job title?
40

1 EMPLOYER WITNESS: She was the sales administration
2 supervisor.
3
4

5 HEARING OFFICER: What's the first part of that?
6
7

8 EMPLOYER WITNESS: Sales...
9
10

11 HEARING OFFICER: Sales.
12
13

14 EMPLOYER WITNESS: ...administration supervisor.
15
16

17 HEARING OFFICER: I have her dates of employment were
18 from March 15, 1988 to April 4, 2014, is that correct?
19
20

21 EMPLOYER WITNESS: That's what I have, yes.
22
23

24 HEARING OFFICER: Mr. McBride, why was the claimant
25 separated from the employment?
26
27

28 EMPLOYER WITNESS: Well essentially there had been multiple
29 difficulties over the past couple of years. They were outlined in the letter
30 that I sent to your agency in response to a request for information, and
31 essentially we stand by that.
32
33

34 HEARING OFFICER: Okay. Well what I'm gonna do is, I do
35 have a letter that you have sent. I'm going to get you if you will just sort of
36 tell me about what happened. If you'll just kind of start from the end and
37 tell me what the last incident was and after that you can just, you know, tell
38 me whatever the other infractions or whatever the other reasons were for.
39
40

1 EMPLOYER WITNESS: Sure. Probably the deciding factor was
2 a problem with an OEM account. It was a new program that was put
3 forward by Eptron, and we found out at the time that we had done her
4 performance review in February of this year, that there hadn't been
5 anything done on the account in her department. And at that point that
6 alerted us that there were some serious problems. In addition to that
7 there had been ongoing problems with her direct supervisor, Dick McKiven,
8 who reported some of the other issues in terms of her cooperation and
9 following instructions, getting into arguments with him, yelling at him. He
10 had to ask her on occasions to stop yelling at him. I also got that from
11 Brian Hatsock post that February meeting, that he had to do the same thing
12 with her a couple of times. So there were a number of different things that
13 were going on, but I think the basic thing was there were just too many
14 mistakes happening in the department and the OEM project was in
15 jeopardy.

16
17
18 HEARING OFFICER: Okay. Now tell me is that the same
19 issue from dealing with the paperwork since fourth quarter of 2013
20 concerning the commissions?
21

22
23 EMPLOYER WITNESS: Yes, that's it. That's the last incident,
24 right.
25

26
27 HEARING OFFICER: It says, "On or around that time the
28 company learned that she had failed to process paperwork since the
29 middle of 2013 for certain sales associates, commissions and quarterly
30 bonuses for the fourth quarter of 2013. This resulted in \$55,000 worth of
31 errors affecting the sales associate's bonus and created substantial tax
32 implications. Is that what that is?
33

34
35 EMPLOYER WITNESS: Yeah, the project went into effect in
36 August of 2013. So no paperwork had been done since then. That held up
37 the quarterly bonus for the employees.
38
39

1 HEARING OFFICER: Okay. And tell me what's the name of
2 the project again?

3
4
5 EMPLOYER WITNESS: It went by McQuay, which was the
6 company we were doing business with and then I understand they were
7 acquired by a company named Dankin. I just keep calling it the OEM
8 Project.

9
10
11 HEARING OFFICER: OAM?

12
13
14 EMPLOYER WITNESS: OEM.

15
16
17 HEARING OFFICER: OEM. And what does that stand for,
18 OEM?

19
20 EMPLOYER WITNESS: Original Equipment Manufacturer. We
21 were getting our products installed on other equipment and sold as unit.

22
23
24 HEARING OFFICER: Okay. Now had Ms. Mueller, had she
25 been given any warnings or ever told that her job was in danger? Mr.
26 McBride?

27
28
29 EMPLOYER WITNESS: Oh, I'm sorry.

30
31
32 HEARING OFFICER: Yeah, was the claimant, Ms. Mueller,
33 was she ever told, first of all was she ever given any warnings or ever told
34 that her job was in danger?

35
36
37 EMPLOYER WITNESS: Yes she was.

1 HEARING OFFICER: Okay. And what were the actual
2 warnings that she was given?
3
4

5 EMPLOYER WITNESS: Well she was told specifically about the
6 problems over the last year over 2013 in terms of her interactions with both
7 the supervisory staff, her supervisors and her staff in her department.
8
9

10 HEARING OFFICER: Okay.
11
12

13 EMPLOYER WITNESS: Additionally that there were too many
14 errors coming out of the department.
15
16

17 HEARING OFFICER: Now was she ever given any formal or
18 written warnings at that time?
19
20

21 EMPLOYER WITNESS: I don't know if she, I couldn't say, I think
22 the warning came I think at the 2013 performance review at the beginning
23 of February of this year.
24
25

26 HEARING OFFICER: And was that given by you?
27
28

29 EMPLOYER WITNESS: I'm sorry?
30
31

32 HEARING OFFICER: Did you give that, the performance
33 analysis?
34
35

36 EMPLOYER WITNESS: I was at the meeting. It was Dick
37 McKiven at the performance review and the meeting was also attended by
38 Brian Hatsock, who is the general manager.
39
40

1 HEARING OFFICER:
2 at this time Mr. McBride?

Okay. What else did you want to tell me

3
4
5 EMPLOYER WITNESS: Again, just that there were repeated
6 difficulties over a period of time and once there was the issue with the OEM
7 project I think that put it over the top. The other I think, big issue was
8 communicating what was happening in her department to her direct
9 supervisor, which was not happening, and all of this came to a head at that
10 point.

11
12
13 HEARING OFFICER:

Okay. I'm not gonna have any further
14 questions for you. Is there anything further you want me to know at this
15 point Mr. McBride?

16
17
18 EMPLOYER WITNESS:
19 sent you.

Just that I stand by the data that I had

20
21
22 HEARING OFFICER:
23 questions for Mr. McBride?

Okay. Ms. Mueller, do you have any

24
25
26 CLAIMANT:

No, not at this, no.

27
28
29 HEARING OFFICER:

Okay, all right, thank you Mr. McBride.
30 Ms. Mueller if you will start by stating your name and then give me a correct
31 spelling of it please.

32
33
34 CLAIMANT:

Billie Mueller, B-i-l-l-i-e M-u-e-l-l-e-r.

35
36
37 HEARING OFFICER:

Okay. Ms. Mueller you've heard what
38 Mr. McBride has told me as to why you were separated from the
39 employment. And if we look at the last issue that he had told me about,

1 this is the OEM project that he was speaking of, tell me what happened
2 with that?

3
4
5 CLAIMANT: We had got it, we had gotten the things,
6 McQuay Dinkins, probably about the end of August....I divided it up, I sent
7 the spreadsheet to the only person in inside sales that had stuff on there
8 and asked him to find out the stats. I never got it returned to me. Maybe I
9 wasn't proactive enough to, you know, keep on her, but you know, I had
10 other things that I was doing, and it just kinda fell by the wayside, and when
11 one come in and, end of January we were having some difficulties with it
12 and I figured it all out and sent a spreadsheet to both Dick McKiven and to
13 Brian Hatsock and all my numbers and counts and everything were right,
14 but they didn't even bother to say anything on the spreadsheet, so I asked,
15 you know, what was going on with Dankin, and I was told very abruptly, you
16 know, because I was, they, one of the girls told me that Dick McKiven was
17 gonna come and talk to me and explain what was going on. So when we
18 had the meeting and Dick was there, I asked him I said, "I thought you were
19 gonna come and talk to me," and very abruptly and rudely he said, "I do not
20 need to talk to you."

21
22
23 HEARING OFFICER: Okay.

24
25
26 CLAIMANT: But the whole thing with the, you know,
27 it, let's put it this, we had no, from the beginning of this OEM project, we
28 had no directives, nobody in sales had made any directive on how it was
29 gonna be handled, how we were gonna do it, what we were gonna do, and
30 in one of our weekly meeings, you know, they were talking about this report
31 coming in, and they said, "Oh, just give it to Billie, she'll figure it out
32 somehow." That was it. That was the directive we got and that was it.
33 Nothing, nothing whatsoever, nothing from any...made the agreement how
34 we were gonna fill out a certain page in quarter program, how we were
35 gonna do commission things, how we were gonna do any of it....directive
36 whatsoever; not one word, until I would say mid-March of this year.

37
38
39 HEARING OFFICER: Okay. Now were you ever given any
40 type of warnings or ever told that your job was in danger?

1 CLAIMANT: No sir, I was not.
2
3

4 HEARING OFFICER: Okay. Who was it that told you that you
5 were being discharged?
6
7

8 CLAIMANT: Mr. Dave Dugan, and he said I was told
9 that we would part by Dave Dugan, and told it would probably be a good
10 time for me to retire. I also have a severance agreement and release but
11 I'm not allowed to divulge the terms because of confidentiality statement in
12 the agreement.
13
14

15 HEARING OFFICER: Okay. All right, is there anything further
16 you want me to know at this time?
17
18

19 CLAIMANT: Just that after looking about my
20 personnel file I've had one write-up in 27 ½ years and it was on 6/8/1988,
21 also the date, I started in September of 1986. I told a two year voluntary
22 layoff when the company was in a little bit of difficulty.
23
24

25 HEARING OFFICER: Okay. Now Ms. Mueller you had also
26 subpoenaed Mr. Dugan to testify as well, is that correct?
27
28

29 CLAIMANT: Yes.
30
31

32 HEARING OFFICER: What was it that you expect him to tell
33 me?
34
35

36 CLAIMANT: Why he said that we were parting
37 company in his words.
38
39

1 HEARING OFFICER: Okay. And did you want him to explain
2 it or what was the reason for you to subpoena him?

3
4
5 CLAIMANT: Just that, you know, cause there was no
6 mention of any insubordination, there was no anything said about breaking
7 company policy, nothing like that.

8
9
10 HEARING OFFICER: Okay. Why is that you feel that you
11 were terminated?

12
13
14 CLAIMANT: I didn't really know. Nobody said
15 anything; just that we were parting company. You know, to me it sounded
16 more like a mandatory retirement than anything else.

17
18
19 HEARING OFFICER: Okay. Okay, well I'm not gonna
20 have any further questions for you at this time. Mr. McBride, do you have
21 any questions for Ms. Mueller?

22
23
24 EMPLOYER WITNESS: I do have a couple.

25
26
27 HEARING OFFICER: Okay, go ahead.

28
29
30 EMPLOYER WITNESS: You had mentioned the spreadsheet
31 that you had done, do you recall that Brian Hatsock and Dick McKiven had
32 to redo the spreadsheet according to them it was not correct?

33
34
35 CLAIMANT: That was the beginning when we were
36 having problems. When I did the one on 2-28 after I'd gotten a little bit of
37 idea of what they were looking for, I turned around and spent half the day
38 redoing and had all my numbers, all my counts, all my dollars, everything
39 worked out.
40

1
2 HEARING OFFICER: Okay, Ms. Mueller, I'm gonna ask you
3 just to answer directly what Mr. McBride is asking. I think the question that
4 he asked you were you aware that it had to be redone. Is that correct Mr.
5 McBride?

6
7
8 EMPLOYER WITNESS: That's correct.
9

10
11 HEARING OFFICER: Okay. Let me get you just to answer
12 that whether you know that answer.
13

14
15 CLAIMANT: Let's say I'm aware of it.
16

17
18 HEARING OFFICER: Okay.
19

20
21 CLAIMANT: That was before, before the 28th.
22

23
24 HEARING OFFICER: Okay. Go ahead Mr. McBride.
25

26
27 EMPLOYER WITNESS: Do you know why it was that you didn't
28 communicate these difficulties to Dick McKiven or Brian Hatsock?
29

30
31 CLAIMANT: I did talk to Brian a couple times, told
32 him I was having difficulties, I also talked to Brian about I hadn't received a
33 report which was supposed to be forwarded to us by Dan Brooks, which
34 never was.

35 EMPLOYER WITNESS: Okay.
36

37
38 CLAIMANT: So that's one reason it went from
39 September to January with no report.
40

1 EMPLOYER WITNESS: Did you ever tell either of them that
2 nothing had been done on them, on the project until the February 5th
3 meeting.
4

5

6

6 CLAIMANT: No, I didn't tell them that I had, like I
7 said I wasn't proactive enough to, you know, told them that I, that you
8 know, that I hadn't gotten any information back from one of the inside sale
9 people. I mean the one that Bill had on there I got the answer to it in an
10 hour. I never got the answer from Nancy at all, the answers from Nancy at
11 all.
12

13

14

14 EMPLOYER WITNESS: Okay. Now you had mentioned that you
15 had an interaction with Dick McKiven where he said something to the effect
16 that he didn't have anything to say to you. Do you recall having a
17 meeting...
18

19

20

20 CLAIMANT: He said, "I do not need to talk to you."
21

22

23

23 EMPLOYER WITNESS: Okay. Do you recall having a
24 subsequent meeting...
25

26

27

27 CLAIMANT: It's not me that took anger management.
28

29

30

30 EMPLOYER WITNESS: Did you have a subsequent meeting
31 with him where you resolved that?
32

33

34

34 CLAIMANT: Not really, kind of. He said he didn't
35 know he talked to me like that. And if you want to talk about somebody
36 yelling, he's the one that yelled, and I just yelled back.
37

38

38

1 EMPLOYER WITNESS: Okay, but you did have a meeting with
2 him to resolve how you felt about the way he had interacted to you on
3 that...

4
5
6 CLAIMANT: I had mentioned it to him. We didn't
7 have a meeting to resolve it. I had mentioned it to him that he, that I
8 thought it was wrong of him to talk to me the way he did that day.

9
10
11 EMPLOYER WITNESS: Okay. At your discharge meeting do
12 you remember David Dugan saying he was letting you go?

13
14
15 CLAIMANT: He said we were parting company.

16
17
18 EMPLOYER WITNESS: All right, so you don't recall him saying
19 he was letting you go.

20
21
22 CLAIMANT: The word he used is, I think we're, is
23 that we are parting company.

24
25
26 EMPLOYER WITNESS: That's all the questions I have.

27
28
29 HEARING OFFICER: All right, thank you Ms. Mueller. At this
30 time I don't have any further questions for either of the parties. Ms.
31 Mueller, is there anything further you want me to know before I close the
32 hearing?

33
34
35 CLAIMANT: No, just that I'm not the only one there
36 that yells. I mean I'm not gonna stand here and be yelled at and be
37 abused. I'm gonna stand up and fight back. And you know, in 27 years,
38 like I said I've had one write-up in 1988. So I must not have been that
39 much of a discouraging employee, right?

1 CLAIMANT: No, just that I'm not the only one there
2 that yells. I mean I'm not gonna stand here and be yelled at and be
3 abused. I'm gonna stand up and fight back. And you know, in 27 years,
4 like I said I've had one write-up in 1988. So I must not have been that
5 much of a discouraging employee, right?
6

7 HEARING OFFICER: Okay. All right, anything further you
8 want me to know?
9

10
11 CLAIMANT: No, I don't think so. I think that's about
12 it.
13

14
15 HEARING OFFICER: Okay. Mr. McBride, anything further you
16 want me to know that you haven't told me already?
17

18
19 EMPLOYER WITNESS: I don't believe so.
20

21
22 HEARING OFFICER: Okay. Having no further questions,
23 hearing no further testimony, this hearing is now closed.
24

25
26 HEARING CLOSED.
27

1 UCB-103
REV. 7/10

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 995, COLUMBIA, S.C. 29202

1 BILLIE D MUELLER

DATE OF THIS NOTICE 04/21/14

1 [REDACTED]
1 [REDACTED]

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE	DISQUALIFICATION ENDS	
BILLIE D MUELLER				[REDACTED]	03/30/14	08/16/14	
WFC NO	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS
260	I	01	\$ 326.00	\$ 6520.00	\$ 6520.00	\$ 0.00	03/29/15

1 DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 _____ You are eligible for benefits from the above effective date.

1 ☒ You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR FAILING TO
1 PERFORM ASSIGNED WORK TO THE SATISFACTION OF YOUR EMPLOYER. FAILURE TO PERFORM IN A MANNER THAT
1 YOUR EMPLOYER HAD A REASONABLE RIGHT TO EXPECT IS A DISCHARGE FOR MISCONDUCT IN CONNECTION WITH
1 THE WORK UNDER THE SOUTH CAROLINA CODE SECTION 41-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20
1 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20 TIMES YOUR WEEKLY BENEFIT AMOUNT.

1 THE SEPARATION WAS A RESULT OF FAILURE TO PROCESS PAPERWORK SINCE THE MIDDLE OF 2013.

1 _____ LAST SEPARATION FROM NON-LIABLE EMPLOYER

UI CLAIMS ADJUDICATOR

1 MAILING DATE 04/22/2014

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY WORKFORCE CENTER, BY MAIL, ADDRESSED TO THE "APPEAL TRIBUNAL," P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL WORKFORCE CENTER OR THE APPEALS DEPARTMENT AT (803) 737-2520.

A#

Record on Appeal = 22

FILE N



Billie Mueller Termination

Ms Mueller was terminated from Ebtron after repeated instances of insubordination, refusal to follow instructions, and failing to perform her duties properly, ultimately resulting in severe errors affecting sales associates' commissions, and errors in tax liability

Since 2012, her direct supervisor, Dick McKibben (Operations Manager) has experienced repeated issues of her failure to follow his instructions to perform her job, insubordination, poor attitude and mistakes

She was notified of these issues verbally by McKibben as they occurred, and he documented them at the same time. She was also notified of these problems officially at her 2013 performance review, held on February 5, 2014. She was placed on a 90-day probationary period (Performance Improvement Plan) at that time and was told she needed to improve immediately

On or around that time, the Company learned that she had failed to process paperwork since the middle of 2013 for certain sales associates' commissions and quarterly bonuses for the 4th quarter of 2013. This resulted in \$55,000 worth of errors affecting the sales associates, bonuses, and created substantial tax implications. She had concealed her failure to perform that work from the company for months, and others had to spend enormous amounts of time to correct those errors.

That failure to perform her job, coupled with her concealment of it for months, on top of her other performance related issues, resulted in her termination.

These performance and attitude related issues violated numerous company policies contained in the employee handbook, which has been communicated to the Claimant. They are

Policy #200 14 Discipline and Rules of Conduct:

- 200 14.3 Unacceptable job performance
- 200 14.4 Not completing assignment up to the quality standards of the Company
- 200 14.5 Failure or inability to cooperate with others
- 200 14.8 Failure or refusal to follow instructions
- 200.14.20 Demonstration of lack of courtesy towards other employees
- 200.14.23 Insubordination
- 200.14.26 Concealing defective work

1863 Hwy 701 S • Leno, SC 29569 USA
Toll Free 800.2EBTRON (800.232.8768) • Local Phone: +1 843 756 1828 • Fax: +1 843 756 1838
Internet: www.ebtron.com • e-Mail: gregm@ebtron.com
EBTRON, Inc. IS AN "AT-WILL," EQUAL OPPORTUNITY EMPLOYER

A#

Record on Appeal = 23

FILE NO.



Policy #200.22 Customer and Fellow Employee Relations.

"Employees of the Company are expected to treat clients and fellow employees courteously and with the utmost respect at all times. Employees must attend to clients' questions and demands promptly and professionally .."

1663 Hwy. 701 S. • Loris, SC 29569 USA
Toll Free: 800.2EBTRON (800.232.8766) • Local Phone: +1.843.756.1828 • Fax +1 843 756.1838
Internet: www.ebtron.com • e-Mail: cream@ebtron.com
EBTRON, Inc. IS AN "AT-WILL," EQUAL OPPORTUNITY EMPLOYER

Performance Review Form - Salary - 2014

Employee Name: Billie Mueller

Job Title: Sales Admin Supervisor

Review Date:

Supervisor: Dick McKibben

Review Type: Annual

Review Period: 01/01/13 to 12/31/13

Performance Rating Categories: Consider the employee's performance in each category and designate the level of performance that most accurately describes her/his job performance

[O]utstanding: Employee constantly exceeds position expectations with virtually no detected preventable/avoidable errors, requiring little or no supervision

[E]xceeds Expectation: Results clearly exceed position requirements on a regular basis. Performance is of high quality and is achieved on a consistent basis.

[M]eets Expectation: Competent & dependable performance level. Meets the performance standards and objectives of the job without constant follow-up and/or direction.

[B]elow Expectation: Employee does not meet performance objectives on a regular basis and has difficulty following through with tasks. Requires constant follow-up and/or supervision.

[I]mmediate Improvement Needed: Employee must correct performance immediately.

Part II: Major Job Responsibilities (No more than 5) (70% Weight)

The Employee and Manager list major job responsibilities in order of importance and identify how they will be measured. Assign a percentage value to each major job responsibility based on the percentage of job responsibility time (Total MUST equal 100%). At the end of the rating period, place a rating letter in the box. Record comments on a separate piece of paper, if necessary.

% of Job	Job Responsibility	Rating
50%	Supervise and help perform daily sales administrative activities. Work to train and develop current and new administrative staff. Follow-up to assure all necessary tasks are completed correctly and on-time. Keep accurate records of admin errors for weekly review.	B
35%	Accept your role as Office Manager. Make decisions related to daily office events and problems. Establish guidelines for each office employee and hold them accountable for their job responsibility. Conduct necessary follow-ups and audits to assure jobs are being performed to our expectations. Hold regular meetings with the group to communicate information and convey instructions to them.	B
15%	Improve your relationships with others at Ebtron. Resist the temptation to comment on what others are not doing and focus on what you and your team can do. Treat all Reps and employees equally. Report failures of other departments and people directly to Dick.	M

SCDEW

APR 21 2014

Received Benefits Div

Performance Review Form - Salary - 2014

Part II: General Employee Attributes

(30% Weight)

1. Rate employee's flexibility when given new assignments and/or responsibilities
2. Rate employee's adherence to policies and procedures.
3. Rate employee's overall communication skills.
4. Rate employee's judgment when making decisions and completing tasks.
5. Rate employee's ability to work well with colleagues and management.
6. Rate employee's attendance:

Rating

M

M

M

M

M

M

Accomplishments or new abilities demonstrated since last review:

--

Specific areas of needed improvement:

Billie has not accepted her role as supervisor. There has been little or no demonstrated leadership exhibited by her toward the Sales Admin group. Employee errors have neither been kept on a consistent basis nor have they been reviewed regularly as required. Greg McBride and I have been required to intervene with the staff to attempt to keep the group functioning properly. Probation action plan will be submitted.

Employee Comments:

Did not get the help that was discussed at last review that I stated I needed.

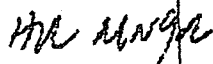
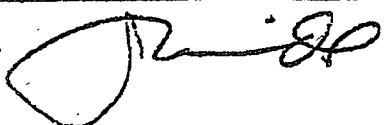
Date Discussed/Reviewed with employee 1/1/14

Follow-up required YES / NO

Employee Signature


Date: 02/05/14 **CDEW**

Manager Signature:


Date: 2/5/14 APR 21 2014



2/5/2014 Received Benefits Div

UCB1011
REV. 07/02

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

NAME: BILLIE D MUELLER		SSN: [REDACTED]	BYE: 03/29/15
CLAIMSTAKER ID:	WFC #: 260	FILED: 04/04/14	EFF DATE: 03/30/14
MAILING ADDRESS: [REDACTED]			
CITY: [REDACTED]		STATE: [REDACTED]	ZIP: [REDACTED]
OTHER NAME: BILLIE D MUELLER			

☒ 1-UI	☐ 4-UI/UCFE/UCX	☐ 7-UCX	☒ NEW	☐ TRANSITIONAL
☐ 2-UI/UCFE	☐ 5-UCFE	☐ 8-CW	☐ ADDITIONAL	☐ R-ADD
☐ 3-UI/UCX	☐ 6-UCFE/UCX	☐ OTHER	☐ CONTINUED	

BONA FIDE EMPLOYER NAME & PAYROLL ADDRESS INFORMATION:		DATES OF EMPLOYMENT:	
NAME: EBTRON, INC.		FROM:	TO:
STREET: 1663 HIGHWAY 701 S		09/26/86	04/04/14
CITY: LORIS	ST: SC	ZIP: 29569	EMP. ACCT. # [REDACTED]

BONA FIDE EMPLOYER LOCAL ADDRESS INFORMATION:			
STREET:			
CITY: LORIS	ST: SC	ZIP:	PHONE #: (908) 359-7960

SEPARATION REASON:	☐ LOW	☐ VQ	☒ DISCHARGE	☐ STILL WORKING
--------------------	------------------------------	-----------------------------	---	--

ISSUE CODES: 01

LIABLE EMPLOYER INFORMATION:		DATES OF EMPLOYMENT:	
NAME: EBTRON, INC.		FROM:	TO:
EMP. ACCT # [REDACTED]		09/26/86	04/04/14
JOB LOCATION (CITY/STATE): LORIS, SC			

SEPARATION REASON:	☐ LOW	☐ VQ	☐ DISCHARGE	☐ STILL WORKING
--------------------	------------------------------	-----------------------------	------------------------------------	--

NARRATIVE REASON FOR SEPARATION FROM LIABLE EMPLOYER:



SC Department of Employment and Workforce Discharge Report

SSN: [REDACTED]
Claimant's name: BILLIE D MUELLER
Date of birth: [REDACTED]
Local office: 260
Benefit year begin date: 3/30/2014
Benefit year end date: 3/29/2015
Claim type: New
Potentially Eligible: No
Employer name: EBTRON, INC.
Employer Account #: 289798
Hire date: 9/26/1986
Termination date: 4/4/2014
Discharge reason: Discharged
Earned at least \$2608: Yes
Bonafide: Yes

Discharge

Discharge Reason: Other

Date of final incident: 2/20/2014
Final incident that caused discharge:
DID NOT WORK UP THE DISBURTION OF COMMISSIONS IN A TIMELY MANNER
Discharge date: 4/4/2014
Reason for delay between final incident and date of discharge: Other
Further details about delay between final incident and discharge date:
DO NOT KNOW FOR SURE
Discharged by: DAVID S. DOUGAN
Title of person who discharged you: PRESIDENT
Violated company policy: No
Final incident impacted employer's business: No
Received prior warnings: No

4/21/2014 8:37:48 AM



SC Department of Employment and Workforce FFATNET Report

MUELLER, BILLIE

(843) 756-1296

Gender: F

dinker@sccoast.net

Date of Birth:

Claim Office: 260

Effective Date: 3/30/2014

Entered On: 4/4/2014

BYE: 3/29/2015

WBA: \$326.00

Interview Appointments:

Issues:

Employers:

Employer Name: EBTRON, INC.

Bonafide employer: Yes

Hire date: 9/26/1986

Termination date: 4/4/2014

Earned at least \$2,608.00: No

Owner or corporate officer of a business: No

Employer Acct Number: 289798

NAICS Code: 334512550

Claimant Separation Reason: Discharged

Employer Separation Reason:

Total Wages: \$57,039.35

Employer Issues:

Kind Description

Discharge

Create Date

4/4/2014 12:00:00 AM

Last Modified Time

4/17/2014 10:54:57 AM

Attachment Info

Description

Created Time

Upload Date

Contact Attempts:

Contact Whom: Employer **Contact Outcome:** Left Voice Mail
Contact Type Phone
Created Date 4/15/2014 11:19:23 AM
Action Data: Called Phone Number 8437561828
Note Made 48 hrs attempt to request employer. Lft message w/ Greg McBride in HR. Informed employer of 48 hr deadline. Due by 11:16am on 4/17/14.

Contact Whom: Claimant **Contact Outcome:** Contacted Successfully
Contact Type Phone
Created Date 4/17/2014 11:08:13 AM
Action Data: Called Phone Number 8437561296
Note

Claimant Rebuttals:

Employer Name	Agree With Employer	Statement
EBTRON, INC.	False	If my work was so poor and unreliable, why are they offering me a severance package in which I have not signed yet. Nothing was stated at the time I was let go. I worked there 28 years and told that this would be a good time for me to retire. I was placed on a probationary period and was let go prior to the 90 days ending.

Employer Rebuttals:**History Events:**

FactFindingIssueCreated at 4/4/2014 2:57:17 PM by BILLIE D MUELLER (PUBLIC\DINKER): Created 'Discharge' Fact Finding Issue for employer 'EBTRON, INC.' with status Submitted as part of submit Claim Application.

FactFindingCreated at 4/4/2014 2:57:17 PM by BILLIE D MUELLER (PUBLIC\DINKER): Fact Finding was created as part of submitting a Claim Application by BILLIE D MUELLER(PUBLIC\DINKER)

StatusChanged at 4/4/2014 3:05:48 PM by SCES\SMHarris: Status changed from Initial Claim to Review by the trigger Claim Submit to ABPS.

CheckOut at 4/15/2014 11:12:05 AM by SCES\NArmstrong: Fact Finding checked out.

FactFindingIssueStatusChange at 4/15/2014 11:13:13 AM by SCES\NArmstrong: Fact Finding Issue " Status changed from 'Submitted' to 'Reviewed' by the trigger 'Review Complete'. Employer Name: EBTRON, INC.

SuccessfulEmployerContact at 4/15/2014 11:19:23 AM by sces\narmstrong: Employer via Phone with outcome Left Voice Mail Notes:'new notetest': 'Made 48 hrs attempt to re...'

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Billie Mueller,

Appellant,

vs.

South Carolina Department of Employment
and Workforce, and Ebtron, Inc.,

Respondents.

Docket No. 14-ALJ-22-0405-AP

ORDER

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to Appellant Billie Mueller's (Appellant) appeal from the decision of the Appellate Panel of the South Carolina Department of Employment and Workforce (DEW). The Appellate Panel affirmed the Appeal Tribunal's finding that Appellant was discharged from her employment with Ebtron, Inc. (Employer) for misconduct connected with the employment, specifically, her failure to timely process \$55,000 in bonuses for sales employees during 2013.

MOTION TO STRIKE AND RESPONSE

Appellant filed her Notice of Appeal on July 25, 2014. The Record on Appeal was filed September 22, 2014. Appellant filed her brief on September 30, 2014.¹ Appellant's brief contains attachments labeled as Exhibits lettered A-J. However, on October 15, 2014, Employer filed a Motion to Strike and Remove Documents from Record. Specifically, Employer moved the Court to strike and remove from the Record Exhibits A, D, E, F, G, H, I, and J attached to Appellant's Opening Brief, and Exhibits A, B, and C attached to Appellant's Application for Leave to Appeal to the Appellate Panel, which had been filed on June 10, 2014.

Employer argues that Appellant had an opportunity to present additional evidence in the evidentiary hearing but failed to do so. Employer also argues that one of the documents is of a confidential nature and that Appellant has a contractual commitment to maintain that confidentiality. On October 21, 2014, Appellant filed a Motion to Strike and Remove Respondent Ebtron's Motion to Remove Documents from the Record, which the Court interprets

¹ Pursuant to ALC Rule 37(A), Appellant had ten (10) days after DEW filed its brief (on October 15, 2014) to file a reply brief if she wished. Appellant did not file a reply brief.

FILED

November 7, 2014

SC ADMIN. LAW COURT

as a Reply to Motion. She alleges that Employer intended to “marginalize to the court, [sic] information which was in their power to provide at the time of the initial hearing conducted by [DEW].” She also argues that contractual terms, though confidential, should be disclosed to the Court to give the Court “a clear understanding[,]” since “the Court was placed in the status of need to know.”

Pursuant to ALC Rule 46, an administrative law judge has the power to “strike from the record objectionable evidence” In this case, Appellant was afforded the opportunity to offer these additional documents into evidence during the evidentiary hearing before the Appeal Tribunal but failed to do so. Indeed, this is the very reason why the Appellate Panel declined to admit these documents when Appellant attempted to have them admitted at that time. Likewise, this Court cannot entertain evidence that was not presented to the trier of fact. *See Hofer v. St. Clair*, 298 S.C. 503, 513, 381 S.E.2d 736, 742 (1989) (“It would be utterly inappropriate for an appellate court to reverse a trial court’s decision in reliance on evidence never submitted to the trial court for its consideration.”). Therefore, the Court hereby grants Employer’s Motion to Strike and Remove Documents from Record and denies Appellant’s Motion.

FACTS/PROCEDURAL BACKGROUND

Appellant was employed by Employer for approximately twenty-seven years. She was terminated from her employment with Employer in April 2014. Afterwards, Appellant filed an initial claim for unemployment benefits with DEW on April 4, 2014. A DEW-claims adjudicator determined that Appellant was discharged for misconduct and disqualified her from receiving benefits for twenty weeks pursuant to South Carolina Code §41-35-120(2) (A) (2013). Specifically, the claims adjuster found that Appellant failed to perform assigned work to the employer’s satisfaction and in a manner that employer had a reasonable right to expect. Appellant appealed that determination to the Appeal Tribunal.

On May 27, 2014, the Appeal Tribunal conducted an evidentiary hearing in which both Appellant and Employer participated. At the hearing, Appellant admitted that she had failed to process the paperwork properly, specifically that maybe she “wasn’t proactive enough” and that the project “fell by the wayside.” As a result of Appellant’s action, the Employer had errors totaling \$55,000 affecting the bonus for sales associates and creating substantial tax consequences for Employer. On May 28, 2014, the Appeal Tribunal affirmed the initial determination that Appellant had been discharge for misconduct.

Comm'n of S.C., 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010). The fact that the record presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency's findings from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). In applying the substantial evidence rule, "a reviewing court will not overturn a finding of fact by an administrative agency 'unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.'" *Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Natural Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981)).

DISCUSSION²

Misconduct Under S.C. Code 41-35-120(A)(2)

The Appellate Panel found that Appellant's action constituted misconduct under S.C. Code Ann. § 41-35-120(2)(a) (Supp. 2013). Specifically, it found that Appellant failed to complete her job duties to the employer's satisfaction because she failed to process bonuses in an expeditious manner.

In her brief, Appellant³ makes conclusory statements of her version of the facts. She asserts that her dismissal was improper because she was not given any warning before her dismissal. In addition, Appellant asserts that her leaving the company has been misrepresented.

S.C. Code Ann. § 41-35-120 (2)(a) provides that "misconduct"

is limited to conduct evincing such wilful and wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in the carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer.

As noted in the statute, "misconduct" includes the disregard of the standard of behavior which an employer can rightfully expect from an employee, or intentional and substantial negligent

² The Court notes from the outset that because Appellant's discussion in her brief contains only allegations and conclusory statements of her version of the facts but no discussion of, or citations to, legal authority, Appellant's arguments would be deemed abandoned on appeal. But the Court takes this opportunity to explain why Appellant's appeal would nevertheless have been unsuccessful even had the arguments been properly preserved.

³ In her brief, Appellant refers to herself as Petitioner rather than Appellant. Because the ALC has appellate jurisdiction over DEW cases, the Court will refer to Mueller as Appellant.

disregard for an employee's interests, duties, or obligations. *Lee v. S.C. Employment Sec. Comm'n*, 277 S.C. 586, 291 S.E.2d 378 (1982).

The facts in this case are similar to the facts in *DeGroot v. Employment Sec. Comm'n*, 285 S.C. 209, 328 S.E.2d 668 (Ct. App. 1985), where a claimant was "discharged for refusal to follow instructions and carelessness." *DeGroot* at 211, 328 S.E.2d at 669.⁴ In *DeGroot*, the employer stated that the appellant had "too many mistakes in typing specifications and some of her work had to be redone by a part-time secretary." *Id.* *DeGroot*, on the other hand, testified "she was discharged because she was unable to keep up with the work." *Id.* The Court of Appeals found that substantial evidence supported the Commission's determination because claimant "had the ability to avoid numerous typographical mistakes and work at the standard her employer could rightfully expect" and the part-time secretary had to redo some of her work. *Id.* at 212, 328 S.E. 2d at 670.

Here, the record shows that Employer was harmed in the amount of \$55,000 due to Appellant's failure to process bonuses in a timely manner. Appellant does not contest that finding. She even admitted that she "wasn't proactive enough" in obtaining the statistics she needed to process bonuses and "it kinda fell by the wayside." Appellant also acknowledged in her brief that there were unpaid commissions for the third and fourth quarters of 2013. Instead, Appellant contends that the company was not harmed due to her failure to process these bonuses. She further argues that she was not provided a warning that her job was in jeopardy, that she was not given the help she needed, and that a coworker was rude. However, Appellant had her 2013 Performance Review in February 2014 and signed a Probation Notice based on that review. Nevertheless, as in *DeGroot*, the Record contains substantial evidence that Appellant's action

⁴ The court in *DeGroot* referenced S.C. Code Ann. § 41-35-120(2) (1976 & Supp. 1983). Though the statute then was different than the statute as it appears now, the differences for purposes of this case are immaterial. The version used in *DeGroot*, as the current version, required intent for misconduct and excluded from misconduct substandard performance resulting from inability or incapacity. Compare S.C. Code Ann. § 41-35-120(2)(a) (Supp. 2013) (requiring that misconduct involve "wilfull and wanton disregard of an employer's interest" or "carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer") with S.C. Code Ann. § 41-35-120(2) (1976 & Supp. 1983) (requiring that misconduct involve "wilful failure or neglect of duty," and "misconduct had to involve "more than a failure in good performance of the employee as the result of inability or incapacity"). Thus, the court in *DeGroot* had the option to find that the claimant had an inability to complete her work in an acceptable fashion due to her workload, which claimant asserted was so heavy that she was unable to keep up. However, the Court of Appeals instead found that there was substantial evidence to support the ESC's determination that the claimant was, in fact, able to complete her work in an acceptable fashion and whose failure to do so and consequent discharge were due to misconduct on her part.

constituted negligence or carelessness showing a substantial disregard for the employer's interest, and was therefore misconduct.

Appellant's Performance of Her Duties

Appellant argues that her failure to perform her duties was not willful. Appellant, however, fails to explain why her actions or inactions must be "willful" to be misconduct under the statute. A discharge for cause is justified when an employee disregards the standard of behavior that an employer can rightfully expect from the employee. *Mickens v. Southland Exch.-Joint Venture*, 305 S.C. 127, 130, 406 S.E.2d 363, 365 (1991).

The Appellate Panel found that Appellant "failed to complete her job duties to the timely satisfaction to the employer." The evidence supports this finding. Again, Appellant acknowledged that she "wasn't proactive enough" in obtaining the statistics she needed to process bonuses, attesting that "it kinda fell by the wayside." Additionally, Appellant admits that there were unpaid bonuses from 2013.

Based on the Record in this case, there is substantial evidence in the record to support this finding.

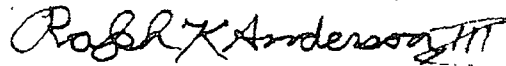
ORDER

IT IS THEREFORE ORDERED Employer's Motion to Strike and Remove Documents from Record is **GRANTED**.

IT IS FURTHER ORDERED that Appellant's Motion to Strike and Remove Respondent Ebtron's Motion to Remove Documents from Record is **DENIED**.

IT IS FURTHER ORDERED that the decision of the South Carolina Department of Employment and Workforce is **AFFIRMED**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

November 7, 2014
Columbia, South Carolina

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina

IN THE MATTER OF THE CLAIM OF:

Billie D. Mueller)

[REDACTED])

Claimant SSN: [REDACTED])

Ebtron, Inc.)

1663 Highway 701 South)

Loris, SC 29569)

Liable Employer)

Appellant: Claimant)

APPELLATE PANEL
DECISION

The claimant appealed Appeal Tribunal Decision 2014-A-8136 to the Appellate Panel. The Tribunal held the claimant disqualified from benefits upon finding she was discharged for misconduct. This decision affirmed the claims adjudicator's determination.

The Appellate Panel issued its decision upon review of the record on appeal.

DECISION

Appeal Tribunal Decision 2014-A-8136 is affirmed. The claimant is disqualified from benefits for twenty (20) weeks, from March 30, 2014, to August 16, 2014, with a corresponding monetary reduction, upon finding she was discharged for misconduct connected with the employment.

The claimant worked from March 15, 1988, to April 4, 2014, most recently as a sales administrative supervisor. She was discharged for failing to properly perform her job duties. The claimant's performance had fallen below the employer's expectations in 2012. She was warned about her performance during her 2013 performance review, held in February 2014. The claimant was placed on a performance improvement plan and was told any further failure to complete required job duties would result in termination. The employer witness states the claimant was required to process bonuses for sales employees during 2013. After a new project began in the middle of 2013, the claimant did not process any bonuses associated with that project.

The employer discovered over \$55,000.00 in unpaid bonuses after the performance review held in February 2014, and the claimant was terminated. The claimant asserts her supervisor yelled at her and she yelled back, but states she did nothing for which she should have been terminated. She acknowledges she was not proactive in dealing with the bonuses, and states that project fell by the wayside. She asserts the February performance review was not a warning, contending her only performance warning was from 1988.

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of an employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.

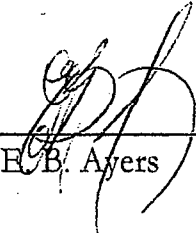
The record establishes the claimant failed to complete her job duties to the employer's satisfaction. The claimant knew or should have known she was required to complete her tasks related to disbursing the bonuses in an expeditious manner. The six (6) month delay in bonuses was unreasonable, and the employer's requirement to have all employee bonus related tasks completed more efficiently was reasonable. The claimant deliberately disregarded the standard of behavior the employer had the right to expect. Therefore, we find the claimant was discharged for misconduct connected with the employment. The Appeal Tribunal decision is affirmed.

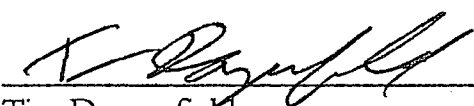
In her appeal to the Appellate Panel, the claimant attempted to present additional statements and documents pertaining to her separation.¹ As a board of review, the Appellate Panel is confined to the record developed by the Appeal Tribunal, and cannot consider additional information which was not previously presented in the evidentiary hearing before the Tribunal. To the extent that the submission of additional statements and documents can be construed as a request for remand, we find the parties were provided with proper notice of the Appeal Tribunal hearing and the record was fully developed by the hearing officer. Further, the claimant asserts the hearing officer was inattentive to the facts during the hearing. After a careful review of the record, we find the hearing officer fully developed all issues related to the

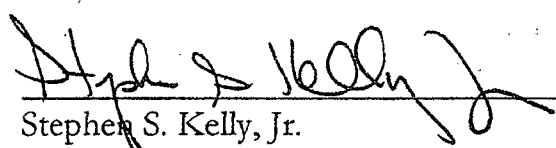
¹ The claimant submitted an Agreement and Release signed by both the claimant and the employer, which states the claimant will be paid a severance. We find this Agreement and Release deals primarily with post separation litigation, and is therefore not a settlement agreement for the purposes of determining the claimant's eligibility for unemployment benefits.

claimant's separation. She was given the opportunity to present additional evidence before the record was closed and declined the opportunity. Therefore, we find no cause to remand this case for further proceedings.

**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**



E. B. Ayers

Tim Dangerfield

Stephen S. Kelly, Jr.

Review Date: 07/02/14
Date Mailed: 07/02/14
Mailed By: AG

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE

DECISION OF APPEAL TRIBUNAL

Hearing Date: May 27, 2014

BILLIE D. MUELLER



CLAIMANT

EBTRON, INC.
1663 HIGHWAY 701 S
LORIS, SC 29569

EMPLOYER

APPELLANT: Claimant

SS NO: 

APPEARANCES

FOR THE
CLAIMANT: Present

FOR THE
EMPLOYER: One witness

FINDINGS OF FACT

The issue in this case is whether the claimant was discharged for misconduct.

The claimant appealed the claims adjudicator's determination mailed April 22, 2014, which held the claimant disqualified from receiving benefits for twenty (20) weeks, effective March 30, 2014 through August 16, 2014, along with a corresponding reduction in the maximum potential benefit amount upon a finding the claimant was discharged for misconduct.

The claimant worked from March 15, 1988 to April 4, 2014, with the subject employer, most recently as a sales administrative supervisor. The claimant was discharged for not performing job duties to the satisfaction of the employer. The last incident occurred when the claimant did not process paperwork pertaining to sales associates commissions since the middle of 2013. The employer stated this led to errors in the amount of \$55, 000. The employer also stated the claimant argued with superiors and had been previously placed on probation.

REASONS

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty (20) weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of his employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.

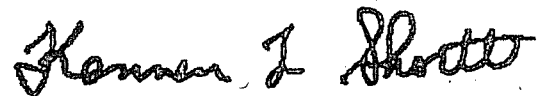
In this instance the Tribunal finds the claimant did not perform her duties to the best of her ability. By not processing the commission paperwork in a timely fashion after the claimant had already been previously suspended for work performance showed a disregard for the employer's reasonable expectation. As a result the Tribunal finds the claimant was discharged for misconduct.

DECISION

The Tribunal hereby holds the claimant disqualified from receiving benefits for twenty (20) weeks, effective, March 30, 2014 through August 16, 2014, along with a corresponding reduction in the maximum potential benefit amount, upon a finding the claimant was discharged for misconduct.

This decision affirms the determination mailed August 16, 2014.

This will be the final decision of the Agency, unless you file an appeal to the Appellate Panel setting forth in detail the grounds for appeal within ten (10) calendar days, including weekends and holidays, from the mailing date of this decision. If the tenth day falls on a Saturday, Sunday or holiday, the appeal period is extended to the next business day. Your appeal may be filed by mail addressed to "Appellate Panel, Post Office Box 1752, Columbia, South Carolina, 29202", or by fax at 803.737.3166. For additional information on filing an appeal, visit our web site at www.dew.sc.gov/appeals.asp.



Kennen L. Shortt
Administrative Hearing Officer

KLS:cgm

Decision Mailed: 05/28/14

Mailed on the above Date By: cgm

RECORD ON APPEAL = 41

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SC Department of Employment and Workforce Initial Claims Application

Filing location: Home
Office location: COASTAL/CONWAY
Claim creator: Claimant
Worked under a different name: No

Ethnicity

Claimant Hispanic or Latino: No

Claimant

Claimant's name: BILLIE D MUELLER

Date of birth: [REDACTED]

Gender: Female

US citizen: Yes

Aliases

Alias type: SocialSecurityCard

Name: BILLIE DAWN MUELLER

Alias type: Current

Name: BILLIE D MUELLER

Race(s)

* White

Addresses

Address type: physical

Address: [REDACTED]

United States address: Yes

Address type: mailing

Address: [REDACTED]

United States address: Yes

Telephone Number

Telephone number type: Home

Telephone number: 843-756-1296 Ext:

Alien Information

Alien card number: None

Expiration date: No

Veteran Information

Service branch: None

Date entered:

Date released:

Character of service: None

Reason for separation:

Completed first full term of service: No

In the National Guard or a Reserve Unit and served on active No
duty during a period of war or in a campaign or expedition:

Served on active duty in the military for a period of more than 180 days: No

Separated from military in the last 48 months: No

Accrued days lost: No

Accrued leave: 0

(Item #16 on DD-214)

Pay grade:

(Item #4b on DD-214)

Retired from military service: No

Have a service related disability: No

Percent disabled: 0%

Awarded a campaign badge or ribbon for service during a conflict: No

Badges and ribbons: None

Will receive pension: No

Worked in the last 18 months: Yes

Employer Name: EBTRON, INC.

Employer delivery address: 1663 HIGHWAY 701 S

Employer city: LORIS

Employer state: SC

Employer zip code: 29569

Employer telephone number: 9083597960

Bona fide employer: Yes

Worked for this employer: Yes

Worked part-time only: No

Hire date: 9/26/1986

Termination date: 4/4/2014

Gross amount made during claim filing week: \$1,150.00

Type of work: Assemblers and Fabricators, All Other

Earned at least \$2,608.00: Yes

Occupational license required: No

Job city: LORIS

Job state: South Carolina

Job duties: SALES ADMIN MANAGER

Child or spouse of employer: No

Owner or corporate officer of a business: No

Accepting all work offered by the employer: Yes

Initiated reduction in work hours: No

Discharge reason: Discharged

Discharge explanation: MADE A MISTAKE

Discharge

Discharge Reason: Other

Date of final incident: 2/20/2014

Final incident that caused discharge:

DID NOT WORK UP THE DISBURTION OF COMMISSIONS IN A TIMELY MANNER

Discharge date: 4/4/2014

Reason for delay between final incident and date of discharge: Other

Further details about delay between final incident and discharge date:

DO NOT KNOW FOR SURE

Discharged by: DAVID S. DOUGAN

Title of person who discharged you: PRESIDENT

Violated company policy: No

Final incident impacted employer's business: No

Received prior warnings: No

Federal employer: No

Received SF8 form: No

Payroll office address based on SF8: No

Job Registration

Spouse of a veteran: Yes
Spouse of a deceased veteran with a total disability rating: No
Spouse of a 100% total disabled veteran: No
Spouse of a veteran killed in the line of duty: No
Spouse of a MIA or POW: No
Worked on a farm: No
Worked in a food processing plant: No

Farm Worker Information

Earned at least half income performing farm work in the last 12 months: No
Employed all year in farm work: No
Traveled to perform farm work: No
Worked at least 25 days or parts of days during the last 12 months performing farm work: No

Food Processing Information

Earned at least half income performing food processing in the last 12 months: No
Employed all year in food processing: No
Traveled to perform food processing: No
Worked at least 25 days or parts of days during the last 12 months performing food processing: No
Do you have a valid driver's license: Yes

Driver License Classes

* D Regular Operator's License

Additional Claim Information

Filed UI claim outside SC in the last 18 months: No
Worked in state outside SC in the last 18 months: No
Filed claim for Trade Readjustment Allowances(TRA): No
Filed claim for Disaster Unemployment Assistance(DUA): No
Receive or have received Federal-Funded assistance: No
Receive or have received retirement: No
Receive or have received federal civilian employee benefits: No
Receive or have received federal military employee benefits: No
Claimant wants taxes withheld from unemployment benefits: Yes

Extra Earned Income

Pension amount: \$0.00

Pension paid by:

Employer pension contribution percentage:

Pension effective date:

Retirement amount: \$0.00

Retirement paid by:

Employer retirement contribution percentage:

Retirement effective date:

Disability amount: \$0.00

Disability paid by:

Disability effective date:

Social security amount: \$0.00

Social security effective date:

Job Eligibility

Only available for part-time work: No

Part-time work explanation: None

Willing to relocate: No

Can begin work immediately: Yes

Children or dependants in household who require care during working hours: No

Children or dependent care explanation: None

Self-Employed: No

Self-Employed job title:

Will be recalled to last job: No

Date of recall to last job:

Have a health condition that limits ability to accept full-time work now or in the future: No

Health status explanation: None

Willing to look for other types of work: Yes

Kind of Jobs Seeking

Office and Administrative Support Workers, All Oth

Years of experience: 20

Years of training: 5

Production Workers, All Other

Years of experience: 20

Years of training: 1

Last Job

Number of miles traveled to work on last job: 5 - 10

Rate of pay on last job: \$28.75

Unit of pay on last job: Hourly

Job Schedule Availability

Monday

Start time: 7:00 AM

End time: 4:30 AM

Tuesday

Start time: 7:00 AM

End time: 4:30 AM

Wednesday

Start time: 7:00 AM

End time: 4:30 AM

Thursday

Start time: 7:00 AM

End time: 4:30 AM

Friday

Start time: 7:00 AM

End time: 4:30 AM

New Job

Miles willing to travel to work: 5 - 10

Minimum wage you will accept on next job: \$20.00

Unit of pay on next job: Hourly

Job Schedule Availability

Monday

Start time: 7:00 AM

End time: 4:30 PM

Tuesday

Start time: 7:00 AM

End time: 4:30 PM

Wednesday

Start time: 7:00 AM

End time: 4:30 PM

Thursday

Start time: 7:00 AM

End time: 4:30 PM

Friday

Start time: 7:00 AM

End time: 4:30 PM

Work Counties

Clarendon

County FIPS: 27

Dillon

County FIPS: 33

Florence

County FIPS: 41

Horry

County FIPS: 51

Marion

County FIPS: 67

Sumter

County FIPS: 85

Last grade completed: 12th Grade & Did Not Graduate or Certificate of High School Attendance

Currently attending school: No

Planning to attend school: No

Current School Information

Name of school: None

School location:

When did you start school:

School Schedule

Willing to change school/training schedule for a full-time job: No

Willing to quit school/training schedule for a full-time job: No

Future School Information

Name of school: None

Location of school:

When are you planning to attend school:

School Schedule

Willing to change school/training schedule for a full-time job: No

Willing to quit school/training schedule for a full-time job: No

Transportation Methods

* Automobile

Benefit Payment Method

Benefit payment type: Debit Card

Bank name:

Account type: Checking

Account number: 

Routing number: 

Debit card agreement accepted: Yes

Direct deposit agreement accepted: No

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

NAME: BILLIE D MUELLER		SSN: [REDACTED]	BYE: 03/29/15
CLAIMSTAKER ID:	WFC #: 260	FILED: 04/04/14	EFF DATE: 03/30/14
MAILING ADDRESS: [REDACTED]			
CITY: [REDACTED]		STATE: [REDACTED]	ZIP: [REDACTED]
OTHER NAME: BILLIE D MUELLER			

☒ 1-UI	☐ 4-UI/UCFE/UCX	☐ 7-UCX	☒ NEW	☐ TRANSITIONAL
☐ 2-UI/UCFE	☐ 5-UCFE	☐ 8-CW	☐ ADDITIONAL	☐ R-ADD.
☐ 3-UI/UCX	☐ 6-UCFE/UCX	☐ OTHER	☐ CONTINUED	

BONA FIDE EMPLOYER NAME & PAYROLL ADDRESS INFORMATION:		DATES OF EMPLOYMENT:	
NAME: EBTRON, INC.		FROM:	TO:
STREET: 1663 HIGHWAY 701 S		09/26/86	04/04/14
CITY: LORIS	ST: SC	ZIP: 29569	EMP. ACCT. # [REDACTED]

BONA FIDE EMPLOYER LOCAL ADDRESS INFORMATION:			
STREET:			
CITY: LORIS	ST: SC	ZIP:	PHONE #: (908) 359-7960

SEPARATION REASON:	☐ LOW	☐ VQ	☒ DISCHARGE	☐ STILL WORKING
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ISSUE CODES: 01

LIABLE EMPLOYER INFORMATION:		DATES OF EMPLOYMENT:	
NAME: EBTRON, INC.		FROM:	TO:
EMP. ACCT # [REDACTED]		09/26/86	04/04/14
JOB LOCATION (CITY/STATE): LORIS, SC			

SEPARATION REASON:	☐ LOW	☐ VQ	☐ DISCHARGE	☐ STILL WORKING
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NARRATIVE REASON FOR SEPARATION FROM LIABLE EMPLOYER:

Rev 4/13

REQUEST FOR INFORMATION
UNEMPLOYMENT INSURANCE BENEFITS

CLAIMANT'S NAME BILLIE D MJELLER

SS# [REDACTED]

NAME WORKED UNDER

DATE MAILED 2014-04-07

EMPLOYER'S ACCOUNT # [REDACTED]

EMPLOYER'S NAME EHTRON, INC
& ADDRESS 1833 HIGHWAY 701 S
LORIS, SC 29558

RETURN WITHIN 10 DAYS OF THE 200 A VICTORY LANE
ABOVE DATF TO P O BOX 1274
CONWAY SC 29528

FAX NUMBER 843-274-0352

ATTENTION FAILURE TO RESPOND TIMELY OR ADEQUATELY TO DEW'S REQUEST
FOR INFORMATION MAY NEGATIVELY IMPACT YOUR UNEMPLOYMENT TAXES.

This person has filed a claim for Unemployment Insurance Benefits and named you as a previous employer. Please explain the reason this person no longer works for you so that a determination can be made on eligibility for benefits. If you reply by letter, fax, or email, you must include the information requested as well as the claimant's name and social security number. For instructions about responding by email, please go to our agency website at www.dew.sc.gov. YOU WILL RECEIVE A DETERMINATION ON THIS CLAIM ONLY IF IT IS FOUND THAT YOU ARE THE BONA FIDE AND/OR LIABLE EMPLOYER.

☒ CLAIMANT'S Reason for Separation DISCHARGED/FIRED/TERMINATED
MADE A MISTAKE

☐ Contact the local Dept of Employment & Workforce shown above by 04/17/2014 if you wish to appear or be represented at an interview regarding the reason for separation.

SEPARATION INFORMATION

☐ LACK OF WORK (No additional written explanation is necessary)

☒ DISCHARGED (Give specific reason)

PLEASE SEE ATTACHMENTS FOR EXPLANATION, CHRONOLOGY, AND DOCUMENTATION
State company policy that claimant violated, if applicable, and describe the final incident leading to the separation.

PLEASE SEE ATTACHMENTS
List any warnings, note if verbal or written and give dates.

PLEASE SEE ATTACHMENTS
If discharged for absenteeism list dates of absences.

☐ VOLUNTARILY QUIT (Give specific reason)

☐ OTHER (Explain in detail)

Dates of Employment

FROM 3/15/1988 TO 4/4/2014

During all terms of employment, have you paid this claimant as much as \$ 2808.00 ☒ YES ☐ NO

If NO how much have you paid this claimant in all terms of employment? \$

Are you paying, or WILL YOU PAY this claimant a pension or retirement pay? ☐ YES ☒ NO

If YES what amount? \$ PER

Did claimant contribute to pension plan? ☐ YES ☒ NO If YES, what percent? %

EMPLOYER NAME

EHTRON, INC

ACCOUNT NUMBER [REDACTED]

EMPLOYER SIGNATURE **

[Signature]

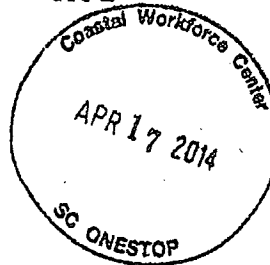
TITLE HR MANAGER

TELEPHONE NUMBER

(843) 256-1828

DATE 4/16/2014

**FORM MUST BE SIGNED IN ORDER FOR INFORMATION TO BE CONSIDERED





April 16, 2014

Billie Mueller Termination

Ms Mueller was terminated from Ebtron after repeated instances of insubordination, refusal to follow instructions, and failing to perform her duties properly, ultimately resulting in severe errors affecting sales associates' commissions, and errors in tax liability

Since 2012, her direct supervisor, Dick McKibben (Operations Manager) has experienced repeated issues of her failure to follow his instructions to perform her job, insubordination, poor attitude and mistakes

She was notified of these issues verbally by McKibben as they occurred, and he documented them at the same time. She was also notified of these problems officially at her 2013 performance review, held on February 5, 2014. She was placed on a 90-day probationary period (Performance Improvement Plan) at that time and was told she needed to improve immediately.

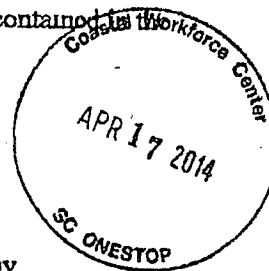
On or around that time, the Company learned that she had failed to process paperwork since the middle of 2013 for certain sales associates' commissions and quarterly bonuses for the 4th quarter of 2013. This resulted in \$55,000 worth of errors affecting the sales associates, bonuses, and created substantial tax implications. She had concealed her failure to perform that work from the company for months, and others had to spend enormous amounts of time to correct those errors.

That failure to perform her job, coupled with her concealment of it for months, on top of her other performance related issues, resulted in her termination.

These performance and attitude related issues violated numerous company policies contained in the employee handbook, which has been communicated to the Claimant. They are

Policy #200.14 Discipline and Rules of Conduct

- 200 14 3 Unacceptable job performance
- 200 14 4 Not completing assignment up to the quality standards of the Company
- 200 14 5 Failure or inability to cooperate with others
- 200 14 8 Failure or refusal to follow instructions
- 200 14 20 Demonstration of lack of courtesy towards other employees
- 200 14 23 Insubordination
- 200 14 26 Concealing defective work



1663 Hwy 701 S • Loris, SC 29569 USA

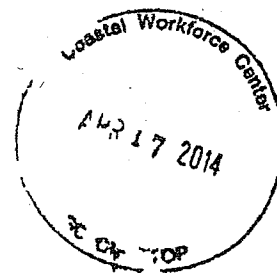
Toll Free: 800 2EBTRON (800 232 8766) • Local Phone: +1 843 756 1828 • Fax: +1 843 756 1838

Internet: www.ebtron.com • e-Mail: gregm@ebtron.com**EBTRON, Inc. IS AN "AT-WILL," EQUAL OPPORTUNITY EMPLOYER**



Policy #200 22 Customer and Fellow Employee Relations

"Employees of the Company are expected to treat clients and fellow employees courteously and with the utmost respect at all times. Employees must attend to clients' questions and demands promptly and professionally."



1663 Hwy 701 S • Lons SC 29569 USA
Toll Free 800 2EBTRON (800 232 8766) • Local Phone +1 843 756 1828 • Fax. +1 843 756 1838
Internet: www.ebtron.com • e-Mail: greem@ebtron.com
EBTRON, Inc. IS AN "AT-WILL," EQUAL OPPORTUNITY EMPLOYER

Performance Review Form - Salary - 2014

Employee Name Billie Mueller Job Title Sales Admin Supervisor
 Review Date Supervisor Dick McKibben
 Review Type Annual Review Period 01/01/13 to 12/31/13

Performance Rating Categories Consider the employee's performance in each category and designate the level of performance that most accurately describes her/his job performance

[O]utstanding Employee consistently exceeds position expectations with virtually no detected preventable/avoidable errors requiring little or no supervision

[E]xceeds Expectation Results clearly exceed position requirements on a regular basis. Performance is of high quality and is achieved on a consistent basis

[M]eets Expectation Competent & dependable performance level. Meets the performance standards and objectives of the job without constant follow-up and/or direction

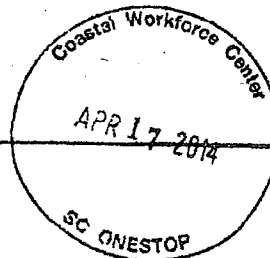
[B]elow Expectation Employee does not meet performance objectives on a regular basis and has difficulty following through with tasks. Requires constant follow-up and/or supervision

[I]mmediate Improvement Needed Employee must correct performance immediately

Part I. Major Job Responsibilities (No more than 5) (70% Weight)

The Employee and Manager list major job responsibilities in order of importance and identify how they will be measured. Assign a percentage value to each major job responsibility based on the percentage of job responsibility time (Total MUST equal 100%). At the end of the rating period, place a rating letter in the box. Record comments on a separate piece of paper, if necessary.

% of Job	Job Responsibility	Rating
50%	Supervise and help perform daily sales administrative activities. Work to train and develop current and new administrative staff. Follow-up to assure all necessary tasks are completed correctly and on-time. Keep accurate records of admin errors for weekly review.	B
35%	Accept your role as Office Manager. Make decisions related to daily office events and problems. Establish guidelines for each office employee and hold them accountable for their job responsibility. Conduct necessary follow-ups and audits to assure jobs are being performed to our expectations. Hold regular meetings with the group to communicate information and convey instructions to them.	B
15%	Improve your relationships with others at Ebtron. Resist the temptation to comment on what others are not doing and focus on what you and your team can do. Treat all Reps and employees equally. Report failures of other departments and people directly to Dick.	M



Performance Review Form - Salary - 2014

Part II General Employee Attributes

(30% Weight)

- | | |
|--|--|
| 1 Rate employee's flexibility when given new assignments and/or responsibilities | Rating
<input type="text" value="M"/> |
| 2 Rate employee's adherence to policies and procedures | <input type="text" value="M"/> |
| 3 Rate employee's overall communication skills | <input type="text" value="M"/> |
| 4 Rate employee's judgment when making decisions and completing tasks | <input type="text" value="M"/> |
| 5 Rate employee's ability to work well with colleagues and management | <input type="text" value="M"/> |
| 6 Rate employee's attendance | <input type="text" value="M"/> |

Accomplishments or new abilities demonstrated since last review

Specific areas of needed improvement

Billie has not accepted her role as supervisor. There has been little or no demonstrated leadership exhibited by her toward the Sales Admin group. Employee errors have neither been kept on a consistent basis nor have they been reviewed regularly as required. Greg McBride and I have been required to intervene with the staff to attempt to keep the group functioning properly. Probation action plan will be submitted.

Employee Comments

Did not get the help that was discussed at last review that I stated I needed B.M.

Date Discussed/Reviewed with employee ____/____/____

Follow-up required YES / NO

Employee Signature Billie Mueller

Date 02/05/14

Manager Signature [Signature]

Date 2/5/14

HR MNGR [Signature]

2/5/2014



Billie Mueller Probation

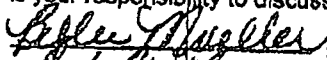
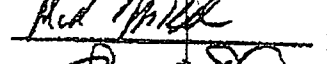
A mandatory Probation period is required as a result of your 2013 Performance Review score. This probation period is not designed to be punitive in nature but is more importantly intended to formalize the individual problem identification and planned action steps to correct the problem(s).

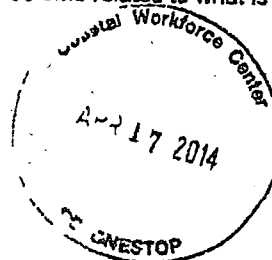
The probation period will be for 90 days.

The following action items must be completed at the duration of the 90 day period

1. A morning meeting will be held at 8:15 each workday with the entire Sales Admin Group in the conference room, when available, or Billie's office. During this meeting Billie will determine workload distribution based on group discussion and assessment of any new overnight work or remaining work from yesterday. Billie is to conduct the meeting and make any necessary adjustments to the group's work schedule for that day if necessary. Consideration during this meeting should be given to:
 - a. Getting PO's entered and distributed to Inside Sales as early as possible
 - b. Distributing the workload evenly
 - c. Making sure that the individual has the skills necessary to complete the assignment
2. Record all errors from the group that are brought to your attention either by your discovery or someone else pointing them out to you
3. Schedule and conduct a weekly review meeting with the group to review all errors made during the past week. Try to schedule this meeting on the same date and time each week if possible. Schedule the meeting through Outlook and invite Dick McKibben and Greg McBride to attend.
4. Keep Dick McKibben informed of all issues/problems you are having as they occur. Effectively communicate to him pertinent issues and events as needed. Do not allow events to occur for a period of time before you tell someone about them.
5. Communicate with your group, superiors and colleagues in a manner expected of an Ebtron department group leader. Discuss issues with them keeping in mind everyone's right to be treated with respect.

There will be periodic reviews of your progress during this time period by Dick and/or Greg to assist you in obtaining the goals outlined above. If you encounter any issues or problems related to what is outlined above, it is your responsibility to discuss them immediately with Dick.

 Billie Mueller
 Dick McKibben
 Greg McBride



1663 Hwy 701 S • Loris, SC 29569 USA
 Toll Free 800 2EBTRON (800 232 8768) • Local Phone +1 843 756 1828 • Fax +1 843 756 1838
 Internet: www.ebtron.com • e-Mail damiano@ebtron.com



SC Department of Employment and Workforce FFATNET Report

MUELLER, BILLIE

(843) 756-1296

Gender: F

dinker@sccoast.net

Date of Birth: [REDACTED]

Claim Office: 260

Effective Date: 3/30/2014

Entered On: 4/4/2014

BYE: 3/29/2015

WBA: \$326.00

Interview Appointments:

Issues:

Employers:

Employer Name: EBTRON, INC.

Bonafide employer: Yes

Hire date: 9/26/1986

Termination date: 4/4/2014

Earned at least \$2,608.00: No

Owner or corporate officer of a business: No

Employer Acct Number: [REDACTED]

NAICS Code: 334512550

Claimant Separation Reason: Discharged

Employer Separation Reason:

Total Wages: \$57,039.35

Employer Issues:

Kind Description

Discharge

Create Date

4/4/2014 12:00:00 AM

Last Modified Time

4/17/2014 10:54:57 AM

Attachment Info

Description

Created Time

Upload Date

Contact Attempts:

Contact Whom: Employer
Contact Type Phone
Created Date 4/15/2014 11:19:23 AM
Action Data: Called Phone Number 8437561828
Note

Contact Outcome: Left Voice Mail

Made 48 hrs
attempt to request
employer. Lft
message w/ Greg
McBride in HR.
Informed
employer of 48 hr
deadline. Due by
11:16am on
4/17/14.

Contact Whom: Claimant
Contact Type Phone
Created Date 4/17/2014 11:08:13 AM
Action Data: Called Phone Number 8437561296
Note

Contact Outcome: Contacted Successfully

Claimant Rebuttals:

Employer Name
EBTRON, INC.

Agree With Employer
False

Statement

If my work was so poor and unreliable, why are they offering me a severance package in which I have not signed yet. Nothing was stated at the time I was let go. I worked there 28 years and told that this would be a good time for me to retire. I was placed on a probationary period and was let go prior to the 90 days ending.

Employer Rebuttals:

History Events:

FactFindingIssueCreated at 4/4/2014 2:57:17 PM by BILLIE D MUELLER (PUBLIC\DINKER): Created 'Discharge' Fact Finding Issue for employer 'EBTRON, INC.' with status Submitted as part of submit Claim Application.

FactFindingCreated at 4/4/2014 2:57:17 PM by BILLIE D MUELLER (PUBLIC\DINKER): Fact Finding was created as part of submitting a Claim Application by BILLIE D MUELLER(PUBLIC\DINKER)

StatusChanged at 4/4/2014 3:05:48 PM by SCES\SMHarris: Status changed from Initial Claim to Review by the trigger Claim Submit to ABPS.

CheckOut at 4/15/2014 11:12:05 AM by SCES\NArmstrong: Fact Finding checked out.

FactFindingIssueStatusChange at 4/15/2014 11:13:13 AM by SCES\NArmstrong: Fact Finding Issue " Status changed from 'Submitted' to 'Reviewed' by the trigger 'Review Complete'. Employer Name: EBTRON, INC.

SuccessfulEmployerContact at 4/15/2014 11:19:23 AM by sces\narmstrong: Employer via Phone with outcome Left Voice Mail Notes:'new notetest': 'Made 48 hrs attempt to re...'

EmployerResponseDueSet at 4/15/2014 11:19:23 AM by sces\narmstrong:
Employer Response Due Date Set. Employer Contact Request Date was 04/15/2014
11:19 AM. Employer Contact Request Due Date is 04/17/2014 11:19 AM

SuccessfulClaimantRebuttal at 4/17/2014 11:08:13 AM by sces\narmstrong:
Claimant via Phone with outcome Contacted Successfully Notes:'new notetest'

Notes:

Note Kind: General **Predefined:**
Note

Made 48 hr attempt to request employer reply. Due by 11:16am on 4/17/14

Note Kind: General **Predefined:**
Note

Employer reply recieved and sent to imaging. Rebuttal statement was taken from claimant. Will finalize ff
when documentation shows in imaging.



SC Department of Employment and Workforce Discharge Report

SSN: [REDACTED]
Claimant's name: BILLIE D MUELLER
Date of birth: [REDACTED]
Local office: 260
Benefit year begin date: 3/30/2014
Benefit year end date: 3/29/2015
Claim type: New
Potentially Eligible: No
Employer name: EBTRON, INC.
Employer Account #: [REDACTED]
Hire date: 9/26/1986
Termination date: 4/4/2014
Discharge reason: Discharged
Earned at least \$2608: Yes
Bonafide: Yes

Discharge

Discharge Reason: Other

Date of final incident: 2/20/2014
Final incident that caused discharge:
DID NOT WORK UP THE DISBURTION OF COMMISSIONS IN A TIMELY MANNER
Discharge date: 4/4/2014
Reason for delay between final incident and date of discharge: Other
Further details about delay between final incident and discharge date:
DO NOT KNOW FOR SURE
Discharged by: DAVID S. DOUGAN
Title of person who discharged you: PRESIDENT
Violated company policy: No
Final incident impacted employer's business: No
Received prior warnings: No

4/21/2014 8:37:48 AM

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 995, COLUMBIA, S.C. 29202

1 EBTRON, INC.
1
1 1663 HIGHWAY 701 S
1
1
1 LORIS

SC 29569

DATE OF THIS NOTICE 04/21/14

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE		DISQUALIFICATION ENDS	
BILLIE D MUELLER					03/30/14		08/16/14	
WFC. NO.	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS	
260	I	01	\$ 326.00	\$ 6520.00	\$ 6520.00	\$ 0.00	03/29/15	

1 DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 _____ You are eligible for benefits from the above effective date.

1 ☒ You have been disqualified from receiving benefits or have been found to be ineligible for benefits
for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR FAILING TO
1 PERFORM ASSIGNED WORK TO THE SATISFACTION OF YOUR EMPLOYER. FAILURE TO PERFORM IN A MANNER THAT
1 YOUR EMPLOYER HAD A REASONABLE RIGHT TO EXPECT IS A DISCHARGE FOR MISCONDUCT IN CONNECTION WITH
1 THE WORK UNDER THE SOUTH CAROLINA CODE SECTION 41-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20
1 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20 TIMES YOUR WEEKLY BENEFIT AMOUNT.

1 THE SEPARATION WAS A RESULT OF FAILURE TO PROCESS PAPERWORK SINCE THE MIDDLE OF 2013.

1 _____ LAST SEPARATION FROM NON-LIABLE EMPLOYER

UI CLAIMS ADJUDICATOR

1 MAILING DATE 04/22/2014

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY WORKFORCE CENTER, BY MAIL, ADDRESSED TO THE "APPEAL TRIBUNAL," P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL WORKFORCE CENTER OR THE APPEALS DEPARTMENT AT (803) 737-2520.

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P. O. Box 995, Columbia, South Carolina 29202

3291

2011 5 14 JEC

SCDEW

Notice of Appeal to Appeal Tribunal

APR 29 2011

Lower Authority A

Claimant's Name BILLIE D MUELLER

Social Security Number [REDACTED]

Claimant's Address [REDACTED]

Telephone 843 756 1296

Employer's Name EBTRON, INC

Telephone 843 756 1828

Employer's Address 1663 HIGHWAY 701 SOUTH, LORIS, SC 29569

Please refer to Determination by Claims Adjudicator to complete section below

On 04/24/2014

(Date of receipt)

I received the determination mailed 4/21/2014

(Mailing date on Notice)

I appeal and hereby apply for a hearing because I believe it was issued in error for the following reasons
THE DATES ARE WRONG AND THERE WAS NEVER ANY DIRECTIVE FROM UPPER MANAGEMENT ON H
THIS PROJECT WAS TO BE HANDLED I WAS NOT THE ONLY PERSON THAT **SCDEW**

If appeal is untimely or you were absent from a prior hearing, state the reason

MAY 01 2014

received Benefits Div

I must continue to file my claim for each week of unemployment until I receive the Appeal Tribunal or Appellate Panel decision, until I return to work, or until my claim is exhausted. If I win the appeal, I know I can only be paid for those weeks that I have timely claimed

BM
(Claimant's Initials)

Does claimant need an interpreter? ☐ YES ☒ NO What language/dialect?

Claimant is ☐ Deaf ☐ Mute

(If it appears necessary to subpoena witnesses or documents, please complete Form APP-107 and attach it when you submit your appeal)

SUBPOENA ☒ YES ☐ NO

Who is filing appeal ☒ Claimant ☐ Employer

Signature

Bellie D. Mueller

Title

Date

4-28-

Please submit form by fax to 803 737 0287 or by mail to "Appeal Tribunal, P O Box 995, Columbia, SC 29202"

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. Box 995, Columbia, South Carolina 29202
NOTICE OF TELEPHONE HEARING

Claimant's Name: BILLIE D MUELLER Social Security Number: [REDACTED]

Claimant's Telephone Number: (843) 756-1296

Employer's Name: EBTRON INC Telephone Number: (843) 756-1828

Appeal Number: 1408227 Hearing Date: 05/27/14 Hearing Time: 2:00 PM
Month/Day/Year Hour/Minute-Eastern Time

Administrative Hearing Officer: KENNEN L. SHORTT for the South Carolina Department of Employment and Workforce will conduct this hearing by means of a **TELEPHONE CONFERENCE**. The parties will be called by the Administrative Hearing Officer at the telephone numbers shown on this form. **IF NO TELEPHONE NUMBER IS SHOWN OR THE NUMBER IS INCORRECT, YOU MUST CALL THIS TOLL FREE NUMBER (866) 269-5680 IMMEDIATELY TO INFORM US OF YOUR NUMBER SO THAT WE MAY INCLUDE YOU IN THE HEARING.**

IF YOU HAVE NOT BEEN CALLED WITHIN 10 MINUTES AFTER THE SCHEDULED TIME OF THE HEARING, YOU MUST CALL (803) 737-2520. EITHER ANOTHER HEARING IS STILL IN PROGRESS OR WE ARE UNABLE TO CONTACT YOU. FAILURE TO CALL PROMPTLY OR PARTICIPATE IN THE HEARING MAY RESULT IN YOUR INTERESTS BEING CONSIDERED ABANDONED.

THE HEARING WILL NOT BE POSTPONED EXCEPT FOR AN EMERGENCY. Contact a representative of the Department at (803) 737-2520, AT ONCE, if you cannot be present at the time scheduled and wish to request a postponement of the hearing. Also, if you require any special needs, such as an interpreter, please contact us prior to the hearing.

ISSUES

☒ Voluntary Quit	☐ Voluntary Retirement	☐ Timeliness of Appeal
☒ Discharge	☐ Absence from Hearing	☐ Fraud & Overpayment
☐ Availability	☐ Overpayment	☐ Job Offer & Referral
☐ Eligibility	☐ Other _____	

EVIDENCE: This hearing is your only chance to testify and present evidence. Sworn testimony is required from witnesses with first-hand knowledge. Any documents that you want considered in this hearing must be mailed to the Appeal Tribunal at the address above, or faxed to (803) 737-0287. In addition to the copy sent to the Appeal Tribunal, you must mail or fax copies to the opposing party. No testimony or evidence can be considered from witnesses who are not present. Documents sent to another address or fax number may not be considered.

SUBPOENAS: If a witness is reluctant to appear, you may apply for a subpoena through the Department's local office or the Appeal Tribunal at (803) 737-2520.

LEGAL REPRESENTATION: An attorney licensed to practice in South Carolina may represent you. It is your responsibility to obtain representation prior to the hearing. Fees charged to represent claimants are limited to the greater of \$125.00 or the claimant's weekly benefit amount per appearance.

IMPORTANT: A claimant must continue to file for benefits during the appeal process if totally or partially unemployed. Weeks not claimed cannot be paid, even if the claimant is held eligible.

This notice supersedes any previous hearing notice you may have received. If the date on this notice is later than the date on any other notice, you should assume that the previous hearing has been postponed and follow the instructions on this notice.

Please note the hearing may result in an increase, decrease, or no change in the disqualification.

MAILING DATE: 05/13/2014

GENERAL INFORMATION ON THE SOUTH CAROLINA CODE IS ON THE BACK OF THIS NOTICE.

SUBPOENA

South Carolina Department of Employment and Workforce
Columbia, S.C.

To: David Dougan
1663 Hwy 701 South , Loris, SC 29569 Phone: 843-756-1828
County of Horry, State of South Carolina

GREETINGS:

YOU ARE HEREBY STRICTLY REQUIRED, and firmly enjoined That, all business being laid aside and excuses ceasing, you do, in your proper person, appear before Kennen L. Shortt Administrative Hearing Officer constituting an Appeal Tribunal at a hearing to be held at

SCDEW - by means of TELECONFERENCE Telephone
At 2:00 PM., on May 27, 2014

and from day to day thereafter, to give evidence of what you know regarding any and all matters relating to the dispute claim for benefits filed by one Billie D. Mueller - Claimant

under the SOUTH CAROLINA CODE, which evidence is deemed necessary in connection with the disputed claim, and to produce books, papers, correspondence,

memoranda or other records which are deemed necessary as evidence in connection with the disputed claim.

You will be called by the Administrative Hearing Officer, at the telephone number shown on this form. If no telephone number is shown or the number is incorrect, you must call 1-866-269-5680 immediately to inform us of your number so that we may include you in the hearing.

HEREIN FAIL NOT, under penalty of the punishment provided in the law.

Dated at Columbia, S.C., this 21st of May 2014.

Appeals Division

By: M.R. Thomas
M.R. Thomas, UI Supervisor
Authorized Representative
803-737-2520

SUBPOENA

South Carolina Department of Employment and Workforce
Columbia, S.C.

To: **Greg McBride**
1663 Hwy 701 South , Loris, SC 29569 Phone: 843-756-1828
County of Horry, State of South Carolina

GREETINGS:

YOU ARE HEREBY STRICTLY REQUIRED, and firmly enjoined That, all business being laid aside and excuses ceasing, you do, in your proper person, appear before Kennen L. Shortt Administrative Hearing Officer constituting an Appeal Tribunal at a hearing to be held at

SCDEW - by means of TELECONFERENCE Telephone
At 2:00 PM., on May 27, 2014

and from day to day thereafter, to give evidence of what you know regarding any and all matters relating to the dispute claim for benefits filed by one Billie D. Mueller - Claimant

under the SOUTH CAROLINA CODE, which evidence is deemed necessary in connection with the disputed claim, and to produce books, papers, correspondence,

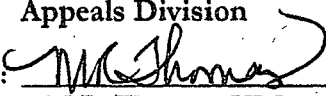
memoranda or other records which are deemed necessary as evidence in connection with the disputed claim Disciplinary records for claimant.

You will be called by the Administrative Hearing Officer, at the telephone number shown on this form. If no telephone number is shown or the number is incorrect, you must call 1-866-269-5680 immediately to inform us of your number so that we may include you in the hearing.

HEREIN FAIL NOT, under penalty of the punishment provided in the law.

Dated at Columbia, S.C., this 21st of May 2014.

Appeals Division

By: 

M.R. Thomas, UI Supervisor
Authorized Representative
803-737-2520

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
Columbia, South Carolina

Transcript of Testimony

Before

Kennen L. Shortt, Administrative Hearing Officer

Billie D. Mueller

) CLAIMANT

[REDACTED]

)

)

Claimant SSN: [REDACTED]

)

Ebtron, Incorporated
1663 Highway 701 South
Loris, SC 29569

) SEPARATING EMPLOYER

)

)

PLACE OF HEARING:

Via Teleconference
SC Department of Employment and
Workforce
631 Hampton Street
Columbia, SC 29201

DATE OF HEARING:

May 27, 2014

APPEARANCES:

For Claimant:

Participated

For Employer:

One witness

TESTIFYING WITNESSES

CLAIMANT:

Billie D. Mueller

EMPLOYER WITNESS:

Greg McBride, HR Manager

1 BEFORE: Kennen L. Shortt, Administrative Hearing Officer
2
3

4 HEARING OFFICER'S PREAMBLE
5
6

7 ALL WITNESSES SWORN
8
9

10 I'll initially ask you questions and give you an opportunity to respond. If
11 there's anything further you want to tell me you can do provided that it's
12 relevant to this hearing. I'll ask that you please present any documents or
13 exhibits that you feel should be considered. You'll be notified of a decision
14 just as soon as possible. It will be mailed to your address of record. Ms.
15 Mueller I have your address of record as [REDACTED] is
16 that correct?
17

18
19 CLAIMANT: Yes sir.
20
21

22 HEARING OFFICER: And Mr. McBride I have the address of
23 record for Ebtron as 1663 Highway 701 South, Loris, SC, 29569, is that
24 correct?
25

26
27 EMPLOYER WITNESS: That's correct.
28
29

30 HEARING OFFICER: Thank you. Let the record show that
31 both addresses are correct. Since this has been ruled a discharge I'll begin
32 testimony with the employer. Before I go any further Mr. McBride, do you
33 have any questions about the procedures or the issues in this case?
34

35
36 EMPLOYER WITNESS: No I don't.
37
38

39 HEARING OFFICER: And Ms. Mueller, do you any questions
40 about the procedures or the issues?

1 CLAIMANT:

No, I don't think so.

2
3
4 HEARING OFFICER:

Okay. What I have here is a copy of the
5 determination letter that was mailed on April 22, 2014. It states "You were
6 discharged from your job with your most recent bona fide employer for
7 failing to perform assigned work to the satisfaction of your employer.
8 Failure to perform in a manner that your employer had a reasonable right to
9 expect is a discharge for misconduct in connection with the work under the
10 SC Code Section 41-35-120(2)(A). You are disqualified for twenty weeks.
11 Your maximum benefits are reduced by twenty times your weekly benefit
12 amount. Separation was a result of failure to process paperwork since the
13 middle of 2013." I'll label this as Agency Exhibit #1. Is this what you are
14 appealing today Ms. Mueller?
15

16
17 CLAIMANT:

Yes sir.

18
19
20 HEARING OFFICER:

Okay. What I also have is some fact
21 finding information, this information compiled from the employer and from
22 the claimant. I'll go ahead and label it as Agency Exhibit #2, and go ahead
23 and place that into evidence at this time. Okay, I'll go ahead and call you to
24 testify Mr. McBride. If you will start by just stating your name for me and
25 then give me a correct spelling of it please.
26

27
28 EMPLOYER WITNESS:

It's Greg McBride, G-r-e-g M-c-B-r-i-d-e.

29
30
31 HEARING OFFICER:

Okay, Mr. McBride you told me that
32 you're the human resources manager, is that correct?
33

34
35 EMPLOYER WITNESS:

That is correct.

36
37
38 HEARING OFFICER:

Mueller's job title?

Okay, and what was the claimant, Ms.
39
40

1 EMPLOYER WITNESS: She was the sales administration
2 supervisor.

3
4
5 HEARING OFFICER: What's the first part of that?
6

7
8 EMPLOYER WITNESS: Sales...
9

10
11 HEARING OFFICER: Sales.
12

13
14 EMPLOYER WITNESS: ...administration supervisor.
15

16
17 HEARING OFFICER: I have her dates of employment were
18 from March 15, 1988 to April 4, 2014, is that correct?
19

20
21 EMPLOYER WITNESS: That's what I have, yes.
22

23
24 HEARING OFFICER: Mr. McBride, why was the claimant
25 separated from the employment?
26

27
28 EMPLOYER WITNESS: Well essentially there had been multiple
29 difficulties over the past couple of years. They were outlined in the letter
30 that I sent to your agency in response to a request for information, and
31 essentially we stand by that.
32

33
34 HEARING OFFICER: Okay. Well what I'm gonna do is, I do
35 have a letter that you have sent. I'm going to get you if you will just sort of
36 tell me about what happened. If you'll just kind of start from the end and
37 tell me what the last incident was and after that you can just, you know, tell
38 me whatever the other infractions or whatever the other reasons were for.
39
40

1 EMPLOYER WITNESS: Sure. Probably the deciding factor was
2 a problem with an OEM account. It was a new program that was put
3 forward by Eptron, and we found out at the time that we had done her
4 performance review in February of this year, that there hadn't been
5 anything done on the account in her department. And at that point that
6 alerted us that there were some serious problems. In addition to that
7 there had been ongoing problems with her direct supervisor, Dick McKiven,
8 who reported some of the other issues in terms of her cooperation and
9 following instructions, getting into arguments with him, yelling at him. He
10 had to ask her on occasions to stop yelling at him. I also got that from
11 Brian Hatsock post that February meeting, that he had to do the same thing
12 with her a couple of times. So there were a number of different things that
13 were going on, but I think the basic thing was there were just too many
14 mistakes happening in the department and the OEM project was in
15 jeopardy.

16
17
18 HEARING OFFICER: Okay. Now tell me is that the same
19 issue from dealing with the paperwork since fourth quarter of 2013
20 concerning the commissions?
21

22
23 EMPLOYER WITNESS: Yes, that's it. That's the last incident,
24 right.
25

26
27 HEARING OFFICER: It says, "On or around that time the
28 company learned that she had failed to process paperwork since the
29 middle of 2013 for certain sales associates, commissions and quarterly
30 bonuses for the fourth quarter of 2013. This resulted in \$55,000 worth of
31 errors affecting the sales associate's bonus and created substantial tax
32 implications. Is that what that is?
33

34
35 EMPLOYER WITNESS: Yeah, the project went into effect in
36 August of 2013. So no paperwork had been done since then. That held up
37 the quarterly bonus for the employees.
38
39

1 HEARING OFFICER: Okay. And tell me what's the name of
2 the project again?

3
4
5 EMPLOYER WITNESS: It went by McQuay, which was the
6 company we were doing business with and then I understand they were
7 acquired by a company named Dankin. I just keep calling it the OEM
8 Project.

9
10
11 HEARING OFFICER: OAM?

12
13
14 EMPLOYER WITNESS: OEM.

15
16
17 HEARING OFFICER: OEM. And what does that stand for,
18 OEM?

19
20 EMPLOYER WITNESS: Original Equipment Manufacturer. We
21 were getting our products installed on other equipment and sold as unit.

22
23
24 HEARING OFFICER: Okay. Now had Ms. Mueller, had she
25 been given any warnings or ever told that her job was in danger? Mr.
26 McBride?

27
28
29 EMPLOYER WITNESS: Oh, I'm sorry.

30
31
32 HEARING OFFICER: Yeah, was the claimant, Ms. Mueller,
33 was she ever told, first of all was she ever given any warnings or ever told
34 that her job was in danger?

35
36
37 EMPLOYER WITNESS: Yes she was.

1 HEARING OFFICER: Okay. And what were the actual
2 warnings that she was given?
3
4

5 EMPLOYER WITNESS: Well she was told specifically about the
6 problems over the last year over 2013 in terms of her interactions with both
7 the supervisory staff, her supervisors and her staff in her department.
8
9

10 HEARING OFFICER: Okay.
11
12

13 EMPLOYER WITNESS: Additionally that there were too many
14 errors coming out of the department.
15
16

17 HEARING OFFICER: Now was she ever given any formal or
18 written warnings at that time?
19
20

21 EMPLOYER WITNESS: I don't know if she, I couldn't say, I think
22 the warning came I think at the 2013 performance review at the beginning
23 of February of this year.
24
25

26 HEARING OFFICER: And was that given by you?
27
28

29 EMPLOYER WITNESS: I'm sorry?
30
31

32 HEARING OFFICER: Did you give that, the performance
33 analysis?
34
35

36 EMPLOYER WITNESS: I was at the meeting. It was Dick
37 McKiven at the performance review and the meeting was also attended by
38 Brian Hatsock, who is the general manager.
39
40

1 HEARING OFFICER:
2 at this time Mr. McBride?

Okay. What else did you want to tell me

3
4
5 EMPLOYER WITNESS: Again, just that there were repeated
6 difficulties over a period of time and once there was the issue with the OEM
7 project I think that put it over the top. The other I think, big issue was
8 communicating what was happening in her department to her direct
9 supervisor, which was not happening, and all of this came to a head at that
10 point.

11
12
13 HEARING OFFICER: Okay. I'm not gonna have any further
14 questions for you. Is there anything further you want me to know at this
15 point Mr. McBride?

16
17
18 EMPLOYER WITNESS: Just that I stand by the data that I had
19 sent you.

20
21
22 HEARING OFFICER: Okay. Ms. Mueller, do you have any
23 questions for Mr. McBride?

24
25
26 CLAIMANT: No, not at this, no.

27
28
29 HEARING OFFICER: Okay, all right, thank you Mr. McBride.
30 Ms. Mueller if you will start by stating your name and then give me a correct
31 spelling of it please.

32
33
34 CLAIMANT: Billie Mueller, B-i-l-l-i-e M-u-e-l-l-e-r.

35
36
37 HEARING OFFICER: Okay. Ms. Mueller you've heard what
38 Mr. McBride has told me as to why you were separated from the
39 employment. And if we look at the last issue that he had told me about,

1 this is the OEM project that he was speaking of, tell me what happened
2 with that?

3
4
5 CLAIMANT: We had got it, we had gotten the things,
6 McQuay Dinkins, probably about the end of August....I divided it up, I sent
7 the spreadsheet to the only person in inside sales that had stuff on there
8 and asked him to find out the stats. I never got it returned to me. Maybe I
9 wasn't proactive enough to, you know, keep on her, but you know, I had
10 other things that I was doing, and it just kinda fell by the wayside, and when
11 one come in and, end of January we were having some difficulties with it
12 and I figured it all out and sent a spreadsheet to both Dick McKiven and to
13 Brian Hatsock and all my numbers and counts and everything were right,
14 but they didn't even bother to say anything on the spreadsheet, so I asked,
15 you know, what was going on with Dankin, and I was told very abruptly, you
16 know, because I was, they, one of the girls told me that Dick McKiven was
17 gonna come and talk to me and explain what was going on. So when we
18 had the meeting and Dick was there, I asked him I said, "I thought you were
19 gonna come and talk to me," and very abruptly and rudely he said, "I do not
20 need to talk to you."

21
22
23 HEARING OFFICER: Okay.

24
25
26 CLAIMANT: But the whole thing with the, you know,
27 it, let's put it this, we had no, from the beginning of this OEM project, we
28 had no directives, nobody in sales had made any directive on how it was
29 gonna be handled, how we were gonna do it, what we were gonna do, and
30 in one of our weekly meeings, you know, they were talking about this report
31 coming in, and they said, "Oh, just give it to Billie, she'll figure it out
32 somehow." That was it. That was the directive we got and that was it.
33 Nothing, nothing whatsoever, nothing from any...made the agreement how
34 we were gonna fill out a certain page in quarter program, how we were
35 gonna do commission things, how we were gonna do any of it....directive
36 whatsoever; not one word, until I would say mid-March of this year.

37
38
39 HEARING OFFICER: Okay. Now were you ever given any
40 type of warnings or ever told that your job was in danger?

1 CLAIMANT: No sir, I was not.
2

3
4 HEARING OFFICER: Okay. Who was it that told you that you
5 were being discharged?
6

7
8 CLAIMANT: Mr. Dave Dugan, and he said I was told
9 that we would part by Dave Dugan, and told it would probably be a good
10 time for me to retire. I also have a severance agreement and release but
11 I'm not allowed to divulge the terms because of confidentiality statement in
12 the agreement.
13

14
15 HEARING OFFICER: Okay. All right, is there anything further
16 you want me to know at this time?
17

18
19 CLAIMANT: Just that after looking about my
20 personnel file I've had one write-up in 27 ½ years and it was on 6/8/1988,
21 also the date, I started in September of 1986. I told a two year voluntary
22 layoff when the company was in a little bit of difficulty.
23

24
25 HEARING OFFICER: Okay. Now Ms. Mueller you had also
26 subpoenaed Mr. Dugan to testify as well, is that correct?
27

28
29 CLAIMANT: Yes.
30

31
32 HEARING OFFICER: What was it that you expect him to tell
33 me?
34

35
36 CLAIMANT: Why he said that we were parting
37 company in his words.
38
39

1 HEARING OFFICER: Okay. And did you want him to explain
2 it or what was the reason for you to subpoena him?

3
4
5 CLAIMANT: Just that, you know, cause there was no
6 mention of any insubordination, there was no anything said about breaking
7 company policy, nothing like that.

8
9
10 HEARING OFFICER: Okay. Why is that you feel that you
11 were terminated?

12
13
14 CLAIMANT: I didn't really know. Nobody said
15 anything; just that we were parting company. You know, to me it sounded
16 more like a mandatory retirement than anything else.

17
18
19 HEARING OFFICER: Okay. Okay, well I'm not gonna
20 have any further questions for you at this time. Mr. McBride, do you have
21 any questions for Ms. Mueller?

22
23
24 EMPLOYER WITNESS: I do have a couple.

25
26
27 HEARING OFFICER: Okay, go ahead.

28
29
30 EMPLOYER WITNESS: You had mentioned the spreadsheet
31 that you had done, do you recall that Brian Hatsock and Dick McKiven had
32 to redo the spreadsheet according to them it was not correct?

33
34
35 CLAIMANT: That was the beginning when we were
36 having problems. When I did the one on 2-28 after I'd gotten a little bit of
37 idea of what they were looking for, I turned around and spent half the day
38 redoing and had all my numbers, all my counts, all my dollars, everything
39 worked out.

1
2 HEARING OFFICER: Okay, Ms. Mueller, I'm gonna ask you
3 just to answer directly what Mr. McBride is asking. I think the question that
4 he asked you were you aware that it had to be redone. Is that correct Mr.
5 McBride?

6
7
8 EMPLOYER WITNESS: That's correct.

9
10
11 HEARING OFFICER: Okay. Let me get you just to answer
12 that whether you know that answer.

13
14
15 CLAIMANT: Let's say I'm aware of it.

16
17
18 HEARING OFFICER: Okay.

19
20
21 CLAIMANT: That was before, before the 28th.

22
23
24 HEARING OFFICER: Okay. Go ahead Mr. McBride.

25
26
27 EMPLOYER WITNESS: Do you know why it was that you didn't
28 communicate these difficulties to Dick McKiven or Brian Hatsock?

29
30
31 CLAIMANT: I did talk to Brian a couple times, told
32 him I was having difficulties, I also talked to Brian about I hadn't received a
33 report which was supposed to be forwarded to us by Dan Brooks, which
34 never was.

35 EMPLOYER WITNESS: Okay.

36
37
38 CLAIMANT: So that's one reason it went from
39 September to January with no report.
40

1 EMPLOYER WITNESS: Did you ever tell either of them that
2 nothing had been done on them, on the project until the February 5th
3 meeting.
4

5
6 CLAIMANT: No, I didn't tell them that I had, like I
7 said I wasn't proactive enough to, you know, told them that I, that you
8 know, that I hadn't gotten any information back from one of the inside sale
9 people. I mean the one that Bill had on there I got the answer to it in an
10 hour. I never got the answer from Nancy at all, the answers from Nancy at
11 all.
12

13
14 EMPLOYER WITNESS: Okay. Now you had mentioned that you
15 had an interaction with Dick McKiven where he said something to the effect
16 that he didn't have anything to say to you. Do you recall having a
17 meeting...
18

19
20 CLAIMANT: He said, "I do not need to talk to you."
21

22
23 EMPLOYER WITNESS: Okay. Do you recall having a
24 subsequent meeting...
25

26
27 CLAIMANT: It's not me that took anger management.
28

29
30 EMPLOYER WITNESS: Did you have a subsequent meeting
31 with him where you resolved that?
32

33
34 CLAIMANT: Not really, kind of. He said he didn't
35 know he talked to me like that. And if you want to talk about somebody
36 yelling, he's the one that yelled, and I just yelled back.
37
38

1 EMPLOYER WITNESS: Okay, but you did have a meeting with
2 him to resolve how you felt about the way he had interacted to you on
3 that...

4
5
6 CLAIMANT: I had mentioned it to him. We didn't
7 have a meeting to resolve it. I had mentioned it to him that he, that I
8 thought it was wrong of him to talk to me the way he did that day.

9
10
11 EMPLOYER WITNESS: Okay. At your discharge meeting do
12 you remember David Dugan saying he was letting you go?

13
14
15 CLAIMANT: He said we were parting company.

16
17
18 EMPLOYER WITNESS: All right, so you don't recall him saying
19 he was letting you go.

20
21
22 CLAIMANT: The word he used is, I think we're, is
23 that we are parting company.

24
25
26 EMPLOYER WITNESS: That's all the questions I have.

27
28
29 HEARING OFFICER: All right, thank you Ms. Mueller. At this
30 time I don't have any further questions for either of the parties. Ms.
31 Mueller, is there anything further you want me to know before I close the
32 hearing?

33
34
35 CLAIMANT: No, just that I'm not the only one there
36 that yells. I mean I'm not gonna stand here and be yelled at and be
37 abused. I'm gonna stand up and fight back. And you know, in 27 years,
38 like I said I've had one write-up in 1988. So I must not have been that
39 much of a discouraging employee, right?
40

1 CLAIMANT: No, just that I'm not the only one there
2 that yells. I mean I'm not gonna stand here and be yelled at and be
3 abused. I'm gonna stand up and fight back. And you know, in 27 years,
4 like I said I've had one write-up in 1988. So I must not have been that
5 much of a discouraging employee, right?

6
7 HEARING OFFICER: Okay. All right, anything further you
8 want me to know?

9
10
11 CLAIMANT: No, I don't think so. I think that's about
12 it.

13
14
15 HEARING OFFICER: Okay. Mr. McBride, anything further you
16 want me to know that you haven't told me already?

17
18
19 EMPLOYER WITNESS: I don't believe so.

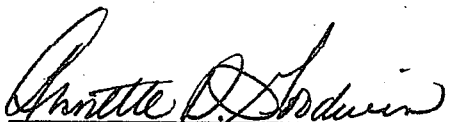
20
21
22 HEARING OFFICER: Okay. Having no further questions,
23 hearing no further testimony, this hearing is now closed.

24
25
26 HEARING CLOSED.
27

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

This is to certify that the following is a true and correct copy of transcript of testimony transcribed to the best of my ability.


Annette D. Goodwin

SWORN to before me this the

8th day of September, 2014

Brenda Spires
Notary Public for South Carolina

My Commission Expires: March 12, 2019

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 995, COLUMBIA, S.C. 29202

1 BILLIE D MUELLER

DATE OF THIS NOTICE 04/21/14

1 [REDACTED]
1 [REDACTED]

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE		DISQUALIFICATION ENDS	
BILLIE D MUELLER				[REDACTED]	03/30/14		08/16/14	
WFC. NO.	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS	
260	I	01	\$ 326.00	\$ 6520.00	\$ 6520.00	\$ 0.00	03/29/15	

1 DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 ☐ You are eligible for benefits from the above effective date.

1 ☒ You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR FAILING TO
1 PERFORM ASSIGNED WORK TO THE SATISFACTION OF YOUR EMPLOYER. FAILURE TO PERFORM IN A MANNER THAT
1 YOUR EMPLOYER HAD A REASONABLE RIGHT TO EXPECT IS A DISCHARGE FOR MISCONDUCT IN CONNECTION WITH
1 THE WORK UNDER THE SOUTH CAROLINA CODE SECTION 41-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20
1 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20 TIMES YOUR WEEKLY BENEFIT AMOUNT.

1 THE SEPARATION WAS A RESULT OF FAILURE TO PROCESS PAPERWORK SINCE THE MIDDLE OF 2013.

1 ☐ LAST SEPARATION FROM NON-LIABLE EMPLOYER

UI CLAIMS ADJUDICATOR

1 MAILING DATE 04/22/2014

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY WORKFORCE CENTER, BY MAIL, ADDRESSED TO THE "APPEAL TRIBUNAL," P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL WORKFORCE CENTER OR THE APPEALS DEPARTMENT AT (803) 737-2520.

EXHIBIT

A# 1

FILE NO: 19081

RECORD ON APPEAL = 8



April 16, 2014

Billie Mueller Termination

Ms Mueller was terminated from Ebtron after repeated instances of insubordination, refusal to follow instructions, and failing to perform her duties properly, ultimately resulting in severe errors affecting sales associates' commissions, and errors in tax liability

Since 2012, her direct supervisor, Dick McKibben (Operations Manager) has experienced repeated issues of her failure to follow his instructions to perform her job, insubordination, poor attitude and mistakes

She was notified of these issues verbally by McKibben as they occurred, and he documented them at the same time. She was also notified of these problems officially at her 2013 performance review, held on February 5, 2014. She was placed on a 90-day probationary period (Performance Improvement Plan) at that time and was told she needed to improve immediately

On or around that time, the Company learned that she had failed to process paperwork since the middle of 2013 for certain sales associates' commissions and quarterly bonuses for the 4th quarter of 2013. This resulted in \$55,000 worth of errors affecting the sales associates, bonuses, and created substantial tax implications. She had concealed her failure to perform that work from the company for months, and others had to spend enormous amounts of time to correct those errors.

That failure to perform her job, coupled with her concealment of it for months, on top of her other performance related issues, resulted in her termination.

These performance and attitude related issues violated numerous company policies contained in the employee handbook, which has been communicated to the Claimant. They are

Policy #200 14 Discipline and Rules of Conduct:

- 200 14.3 Unacceptable job performance
- 200 14.4 Not completing assignment up to the quality standards of the Company
- 200 14.5 Failure or inability to cooperate with others
- 200 14.8 Failure or refusal to follow instructions
- 200.14.20 Demonstration of lack of courtesy towards other employees
- 200.14.23 Insubordination
- 200.14.26 Concealing defective work

1663 Hwy 701 S • Lons, SC 29569 USA

Toll Free 800.2EBTRON (800.232.8768) • Local Phone: +1 843 756 1828 • Fax: +1 843 756 1838

Internet: www.ebtron.com • e-Mail: gregm@ebtron.com

EBTRON, Inc. IS AN "AT-WILL," EQUAL

EXHIBIT

A# 2

FILE NO: 14082 RECORD ON APPEAL = 8



Policy #200.22 Customer and Fellow Employee Relations.

"Employees of the Company are expected to treat clients and fellow employees courteously and with the utmost respect at all times. Employees must attend to clients' questions and demands promptly and professionally .."

1663 Hwy. 701 S. • Loris, SC 29569 USA
Toll Free. 800.2EBTRON (800.232.8766) • Local Phone: +1.843.756.1828 • Fax +1 843 756.1838
Internet: www.ebtron.com • e-Mail: gregm@ebtron.com
EBTRON, Inc. IS AN "AT-WILL," EQUAL OPPORTUNITY EMPLOYER

Performance Review Form - Salary - 2014Employee Name: **Billie Mueller**Job Title: **Sales Admin Supervisor**Review Date: Supervisor: **Dick McKibben**Review Type: **Annual**Review Period: **01/01/13** to **12/31/13**

Performance Rating Categories: Consider the employee's performance in each category and designate the level of performance that most accurately describes her/his job performance

[O]utstanding: Employee consistently exceeds position expectations with virtually no detected preventable/avoidable errors, requiring little or no supervision

[E]xceeds Expectation: Results clearly exceed position requirements on a regular basis. Performance is of high quality and is achieved on a consistent basis.

[M]eets Expectation: Competent & dependable performance level. Meets the performance standards and objectives of the job without constant follow-up and/or direction.

[B]elow Expectation: Employee does not meet performance objectives on a regular basis and has difficulty following through with tasks. Requires constant follow-up and/or supervision.

[I]mmediate Improvement Needed: Employee must correct performance immediately.

Part I: Major Job Responsibilities (No more than 5) (70% Weight)

The Employee and Manager list major job responsibilities in order of importance and identify how they will be measured. Assign a percentage value to each major job responsibility based on the percentage of job responsibility time (Total MUST equal 100%). At the end of the rating period, place a rating letter in the box. Record comments on a separate piece of paper, if necessary.

% of Job	Job Responsibility	Rating
50%	Supervise and help perform daily sales administrative activities. Work to train and develop current and new administrative staff. Follow-up to assure all necessary tasks are completed correctly and on-time. Keep accurate records of admin errors for weekly review.	B
35%	Accept your role as Office Manager. Make decisions related to daily office events and problems. Establish guidelines for each office employee and hold them accountable for their job responsibility. Conduct necessary follow-ups and audits to assure jobs are being performed to our expectations. Hold regular meetings with the group to communicate information and convey instructions to them.	B
15%	Improve your relationships with others at Ebtron. Resist the temptation to comment on what others are not doing and focus on what you and your team can do. Treat all Reps and employees equally. Report failures of other departments and people directly to Dick.	M

SCDEW

APR 21 2014

Received Benefits Div

Performance Review Form - Salary - 2014

Part II: General Employee Attributes

(30% Weight)

1. Rate employee's flexibility when given new assignments and/or responsibilities
2. Rate employee's adherence to policies and procedures.
3. Rate employee's overall communication skills.
4. Rate employee's judgment when making decisions and completing tasks.
5. Rate employee's ability to work well with colleagues and management.
6. Rate employee's attendance:

Rating

M

M

M

M

M

M

Accomplishments or new abilities demonstrated since last review:

--	--

Specific areas of needed improvement:

Billie has not accepted her role as supervisor. There has been little or no demonstrated leadership exhibited by her toward the Sales Admin group. Employee errors have neither been kept on a constant basis nor have they been reviewed regularly as required. Greg McBride and I have been required to intervene with the staff to attempt to keep the group functioning properly. Probation action plan will be submitted.

Employee Comments:

Did not get the info that was discussed at last review that I stated I needed.

Date Discussed/Reviewed with employee / /

Follow-up required YES / NO

Employee Signature

Billie Mueller

Date:

02/05/14 **SCDEW**

Manager Signature:

Phil Miller

Date:

2/5/14 APR 21 2014*Mr. Miller**[Signature]**2/5/2014* Received Benefits Div

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

NAME: BILLIE D MUELLER		SSN: [REDACTED]	BYE: 03/29/15															
CLAIMSTAKER ID:	WFC #: 260	FILED: 04/04/14	EPP DATE: 03/30/14															
MAILING ADDRESS: [REDACTED]																		
CITY: [REDACTED]		STATE: [REDACTED]	ZIP: [REDACTED]															
OTHER NAME: BILLIE D MUELLER																		
<table border="0" style="width: 100%;"><tr><td>☒ 1-UI</td><td>☐ 4-UI/UCFE/UCX</td><td>☐ 7-UCX</td><td>☒ NEW</td><td>☐ TRANSITIONAL</td></tr><tr><td>☐ 2-UI/UCFE</td><td>☐ 5-UCFE</td><td>☐ 8-CW</td><td>☐ ADDITIONAL</td><td>☐ R-ADD</td></tr><tr><td>☐ 3-UI/UCX</td><td>☐ 6-UCFE/UCX</td><td>☐ OTHER</td><td>☐ CONTINUED</td><td></td></tr></table>				☒ 1-UI	☐ 4-UI/UCFE/UCX	☐ 7-UCX	☒ NEW	☐ TRANSITIONAL	☐ 2-UI/UCFE	☐ 5-UCFE	☐ 8-CW	☐ ADDITIONAL	☐ R-ADD	☐ 3-UI/UCX	☐ 6-UCFE/UCX	☐ OTHER	☐ CONTINUED	
☒ 1-UI	☐ 4-UI/UCFE/UCX	☐ 7-UCX	☒ NEW	☐ TRANSITIONAL														
☐ 2-UI/UCFE	☐ 5-UCFE	☐ 8-CW	☐ ADDITIONAL	☐ R-ADD														
☐ 3-UI/UCX	☐ 6-UCFE/UCX	☐ OTHER	☐ CONTINUED															
BONA FIDE EMPLOYER NAME & PAYROLL ADDRESS INFORMATION:			DATES OF EMPLOYMENT:															
NAME: EBTRON, INC.																		
STREET: 1663 HIGHWAY 701 S																		
CITY: LORIS																		
ST: SC																		
ZIP: 29569																		
EMP. ACCT. # [REDACTED]																		
BONA FIDE EMPLOYER LOCAL ADDRESS INFORMATION:																		
STREET:																		
CITY: LORIS																		
ST: SC																		
ZIP:																		
PHONE #: (908) 359-7960																		
SEPARATION REASON: ☐ LOW ☐ VQ ☒ DISCHARGE ☐ STILL WORKING																		
ISSUE CODES: 01																		
LIABLE EMPLOYER INFORMATION:			DATES OF EMPLOYMENT:															
NAME: EBTRON, INC.																		
EMP. ACCT # [REDACTED]																		
JOB LOCATION (CITY/STATE): LORIS, SC																		
SEPARATION REASON: ☐ LOW ☐ VQ ☐ DISCHARGE ☐ STILL WORKING																		
NARRATIVE REASON FOR SEPARATION FROM LIABLE EMPLOYER:																		



SC Department of Employment and Workforce Discharge Report

SSN: [REDACTED]
Claimant's name: BILLIE D MUELLER
Date of birth: [REDACTED]
Local office: 260
Benefit year begin date: 3/30/2014
Benefit year end date: 3/29/2015
Claim type: New
Potentially Eligible: No
Employer name: EBTRON, INC.
Employer Account #: 289798
Hire date: 9/26/1986
Termination date: 4/4/2014
Discharge reason: Discharged
Earned at least \$2608: Yes
Bonafide: Yes

Discharge

Discharge Reason: Other

Date of final incident: 2/20/2014
Final incident that caused discharge:
DID NOT WORK UP THE DISBURTION OF COMMISSIONS IN A TIMELY MANNER
Discharge date: 4/4/2014
Reason for delay between final incident and date of discharge: Other
Further details about delay between final incident and discharge date:
DO NOT KNOW FOR SURE
Discharged by: DAVID S. DOUGAN
Title of person who discharged you: PRESIDENT
Violated company policy: No
Final incident impacted employer's business: No
Received prior warnings: No



SC Department of Employment and Workforce FFATNET Report

MUELLER, BILLIE

(843) 756-1296

Gender: F

dinker@sccoast.net

Date of Birth: [REDACTED]

Claim Office: 260

Effective Date: 3/30/2014

Entered On: 4/4/2014

BYE: 3/29/2015

WBA: \$326.00

Interview Appointments:

Issues:

Employers:

Employer Name: EBTRON, INC.

Bonafide employer: Yes

Hire date: 9/26/1986

Termination date: 4/4/2014

Earned at least \$2,608.00: No

Owner or corporate officer of a business: No

Employer Acct Number: 289798

NAICS Code: 334512550

Claimant Separation Reason: Discharged

Employer Separation Reason:

Total Wages: \$57,039.35

Employer Issues:

Kind Description

Discharge

Create Date

4/4/2014 12:00:00 AM

Last Modified Time

4/17/2014 10:54:57 AM

Attachment Info

Description

Created Time

Upload Date

Contact Attempts:

Contact Whom: Employer
Contact Type Phone
Created Date 4/15/2014 11:19:23 AM
Action Data: Called Phone Number 8437561828
Note Made 48 hrs attempt to request employer. Lft message w/ Greg McBride in HR. Informed employer of 48 hr deadline. Due by 11:16am on 4/17/14.

Contact Outcome: Left Voice Mail

Contact Whom: Claimant
Contact Type Phone
Created Date 4/17/2014 11:08:13 AM
Action Data: Called Phone Number 8437561296
Note

Contact Outcome: Contacted Successfully

Claimant Rebuttals:

Employer Name	Agree With Employer	Statement
EBTRON, INC.	False	If my work was so poor and unreliable, why are they offering me a severance package in which I have not signed yet. Nothing was stated at the time I was let go. I worked there 28 years and told that this would be a good time for me to retire. I was placed on a probationary period and was let go prior to the 90 days ending.

Employer Rebuttals:

History Events:

FactFindingIssueCreated at 4/4/2014 2:57:17 PM by BILLIE D MUELLER (PUBLIC\DINKER): Created 'Discharge' Fact Finding Issue for employer 'EBTRON, INC.' with status Submitted as part of submit Claim Application.

FactFindingCreated at 4/4/2014 2:57:17 PM by BILLIE D MUELLER (PUBLIC\DINKER): Fact Finding was created as part of submitting a Claim Application by BILLIE D MUELLER(PUBLIC\DINKER)

StatusChanged at 4/4/2014 3:05:48 PM by SCES\SMHarris: Status changed from Initial Claim to Review by the trigger Claim Submit to ABPS.

CheckOut at 4/15/2014 11:12:05 AM by SCES\NArmstrong: Fact Finding checked out.

FactFindingIssueStatusChange at 4/15/2014 11:13:13 AM by SCES\NArmstrong: Fact Finding Issue " Status changed from 'Submitted' to 'Reviewed' by the trigger 'Review Complete'. Employer Name: EBTRON, INC.

SuccessfulEmployerContact at 4/15/2014 11:19:23 AM by sces\narmstrong: Employer via Phone with outcome Left Voice Mail Notes:'new notetest': 'Made 48 hrs attempt to re...'

Ref

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE

DECISION OF APPEAL TRIBUNAL

Hearing Date: May 27, 2014

BILLIE D. MUELLER

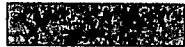


CLAIMANT

EBTRON, INC.
1663 HIGHWAY 701 S
LORIS, SC 29569

EMPLOYER

APPELLANT: Claimant

SS NO: 

APPEARANCES

FOR THE
CLAIMANT: Present

FOR THE
EMPLOYER: One witness

FINDINGS OF FACT

The issue in this case is whether the claimant was discharged for misconduct.

The claimant appealed the claims adjudicator's determination mailed April 22, 2014, which held the claimant disqualified from receiving benefits for twenty (20) weeks, effective March 30, 2014 through August 16, 2014, along with a corresponding reduction in the maximum potential benefit amount upon a finding the claimant was discharged for misconduct.

The claimant worked from March 15, 1988 to April 4, 2014, with the subject employer, most recently as a sales administrative supervisor. The claimant was discharged for not performing job duties to the satisfaction of the employer. The last incident occurred when the claimant did not process paperwork pertaining to sales associates commissions since the middle of 2013. The employer stated this led to errors in the amount of \$55, 000. The employer also stated the claimant argued with superiors and had been previously placed on probation.

REASONS

S.C. Code Ann. § 41-35-120(2)(a) requires disqualification from benefits for twenty (20) weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for misconduct connected with the employment. "Misconduct" includes deliberate violations or disregard of the standards of behavior which an employer has the right to expect of his employee, and carelessness or negligence of such a degree or frequency as to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.

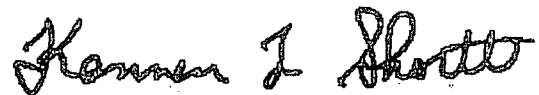
In this instance the Tribunal finds the claimant did not perform her duties to the best of her ability. By not processing the commission paperwork in a timely fashion after the claimant had already been previously suspended for work performance showed a disregard for the employer's reasonable expectation. As a result the Tribunal finds the claimant was discharged for misconduct.

DECISION

The Tribunal hereby holds the claimant disqualified from receiving benefits for twenty (20) weeks, effective, March 30, 2014 through August 16, 2014, along with a corresponding reduction in the maximum potential benefit amount, upon a finding the claimant was discharged for misconduct.

This decision affirms the determination mailed August 16, 2014.

This will be the final decision of the Agency, unless you file an appeal to the Appellate Panel setting forth in detail the grounds for appeal within ten (10) calendar days, including weekends and holidays, from the mailing date of this decision. If the tenth day falls on a Saturday, Sunday or holiday, the appeal period is extended to the next business day. Your appeal may be filed by mail addressed to "Appellate Panel, Post Office Box 1752, Columbia, South Carolina, 29202", or by fax at 803.737.3166. For additional information on filing an appeal, visit our web site at www.dew.sc.gov/appeals.asp.



Kennen L. Shortt
Administrative Hearing Officer

KLS:cgm

Decision Mailed: 05/28/14

Mailed on the above Date By: cgm

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
631 Hampton Street
P.O. Box 1752
Columbia, SC 29202

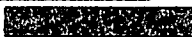
NOTICE OF CLAIMANT APPEAL TO THE APPELLATE PANEL

DATE: June 11, 2014

APPEAL NO: 08227-140938

CLAIMANT:

Billie D. Mueller


SSN: 

LIABLE EMPLOYER:

Ebtron, Inc.
1663 Highway 701 S
Loris, SC 29569

SEPARATING EMPLOYER:

The claimant in this case appealed the Appeal Tribunal Decision to the Appellate Panel for review. A copy of the appeal is attached.

The Panel will review your case as soon as possible, and may issue a decision based solely on its review of the record on appeal or may schedule an in-person hearing. Hearings are conducted at the Appellate Panel offices in Columbia. You may request a hearing by calling (803) 737-0239 or by mailing a written request to the P.O. Box listed above. The Panel, at its sole discretion, may grant or deny the request. If a hearing is scheduled, a copy of the transcript and the hearing notice will be mailed to you at a later date.

SPECIAL NOTE: The Appellate Panel can make its own factual findings and may reverse, affirm, or modify the decision on appeal. Be advised that this may result in an increase or decrease of the disqualification.

Claimants must continue filing a weekly claim pending the appeal to receive benefits. Any benefits received by the claimant may be subject to recovery if the Appeal Tribunal Decision is reversed.

Higher Authority Appeals Department
Telephone: (803) 737-0239

cc: Liable Employer:
 Separating Employer:
 Claimant's Attorney:
 Employer's Attorney:
 Imaging
 File

rev. 11/13/12/adg

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P. O. BOX 1752, COLUMBIA, SC 29202

APP111

APPLICATION FOR LEAVE TO APPEAL TO THE APPELLATE PANEL

Claimant's Name Billie D. Mueller

SSN [REDACTED]

Address [REDACTED]

Telephone Number 843-877-3226 (Cell)

Employer's Name EBTROW, Inc

Address 1663 Hwy 701 South
Loris, SC 29569

Please refer to Decision of Appeal Tribunal to complete section below.

On 6-4-2014, I received Appeal Tribunal Decision Number 2014-A-8136
(Date of Receipt)

mailed to me on 5-28-2014
(Mailing Date on Decision)

I ask for review of the record on the following grounds:

SEE ATTACHED EXHIBIT A, B, C

* If appeal is untimely, state the reason. If appellant failed to attend Appeal Tribunal hearing, state the reason and whether postponement was requested:

I must continue filing my claims for each week of unemployment while my appeal is pending; I can only be paid for those weeks that I have timely claimed. If I have received benefits and am ruled disqualified or ineligible, I will be required to repay the benefits I have received for that time period.

****As a Board of Review, the Appellate Panel is confined solely to the record submitted by the Appeal Tribunal and does not accept additional evidence or testimony in its consideration of the appeal. For this reason, subpoenas for appeals to the Appellate Panel will not be issued.**

Who is filing appeal: ☒ Claimant ☐ Employer

Signature: Billie D. Mueller

Title:

RECEIVED

Date

6-5-14
JUN 10 2014

SCDEW
HIGHER AUTHORITY APPEALS

Does claimant need an interpreter? ☐ YES ☒ NO If yes, what language/dialect?

Claimant is ☐ Deaf ☐ Mute

Please submit form by fax to 803.737.3166 or by mail to "Appellate Panel, P.O. Box 1752, Columbia, SC 29202."

cgm 5/28 Shortt

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COMPLAINT

- A. Did the SCDEW Appellate Panel err in finding the Appellant's action constituted misconduct under S.C. Code 45-35-120(2)-(4) Act 247?
- B. Did the SCDEW Appellate Panel err in finding that Appellant willfully failed to perform her duties under S.C. Act 247?
- C. Did the SCDEW Appellate Panel err in allowing the testimony and the submission of the Request For Information from Greg McBride because of a Complete Conflict of Interest.

ANSWER

During the telephone hearing with the SCDEWS Appeal Tribunal the Appellant was not given any of the documents Exhibits 1 and 2 that are part of the Appellants unemployment file by SCDEWS or Ebtron so the Appellate could put on a proper defense. Appellant was also not given a copy of the telephone hearing regulations. Appellants Subpoenaed witnesses Greg McBride¹ was to submit Personnel File only no testimony, David Dougan who I subpoenaed did not participate was to testify at the telephone hearing of what was said by him at the termination meeting is that we were parting company and with my S/S and Unemployment I should be okay. The Appellant also had never seen any of the unemployment file documents till September 22, 2014. David Dougan conducted

¹ Greg McBride and I had been working closely together for over 4 months to help me with the issues I had been having with my Manager Dick McKibben with his anger.

1 the exit interview, and presented the Separation Agreement² and assured Ms.
2 Mueller of her performance. The misrepresentation of information, deliberate abuse
3 of trust and etc. were not mentioned during exit interview or within the separation
4 document.

5 The entire basis of the Appeal is that the Appellant was not afforded
6 the opportunity to disclose documents incumbent on the respondent. That the
7 findings of the original proceeding were arrived upon without the separation
8 document between the Appellant and the Respondent. The Appellant vetted in good
9 faith believing all documents and work records would be presented at the time of
10 the original hearing. The documents that are being sought to exclude clouded the
11 outcome and impartial scrutiny of the employer / employee agreement. The
12 separation document authored by the employer was with held from the original
13 record.

- 14 1) Never in over 26 years a formal letter or reprimand from management
- 15 2) Never in over 26 years a notice of warning or management's attention to
16 variance excepting incident
- 17 3) Approximately \$6,350.00 of unpaid commissions falling into
18 the 3rd Quarter of the 2013 obligation was all I had in my possession from
19 Sept. 9th 2013 till Jan. 20th 2014
- 20 4) There was absolutely no loss of revenue to Ebtron or the accuracy
21 of the Invoicing to Daikin / McQuay. The Ms. DeGroot comments
22 misrepresents the software and accounting issues regarding this incident.
23

24
25 ² The respondent has requested this document be stricken from the Appeal even though it was included in the Respondents
Record on Appeal to the Administrative Law Court which opened the door for Appellate to mention.

- 1 5) During the tenure of my employment no prior variances are documented
2 nor in the tax year for 2013 the Sales Admin. Office had accurately
3 invoiced several millions in revenue every year without an issue.
- 4 6) The employer in the Separation Agreement makes no mention of failure
5 to perform. Nor were the articles of separation provided to SCDEW
6 at the time of the initial hearing.
- 7 7) That the incident regarding performance and 90 day Action Plan. No
8 action plan was initiated and the employer failed to present the action
9 plan referenced. No formal performance documents presented subsequent
10 to a 26+ year employment history.
- 11 8) During the review period the Employers Primary Respondent and
12 Appellate's Manager was required to attend "Anger Management" was not
13 noted by Ebtron nor included in documents provided the court.
- 14 9) It should also be noted Articles of Separation clearly state all parties are
15 not to make any comments constituting derogatory remarks.
- 16 10) Ebtron did not share with SCDEW the numerous acknowledgements of
17 customers and Manufactures Representatives regarding my performance.
18

19 Dated this 20th day of October, 2016

20 Billie D. Mueller

21 PO Box 98
22 Davis Station, SC 29041
23 (803) 410-6935
24 Appellant has no Attorney
25

1 UCB-103
REV. 7/10

CHARGE
SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 995, COLUMBIA, S.C. 29202

DATE OF THIS NOTICE 04/21/14

1 BILLIE D MUELLER



CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE	DISQUALIFICATION ENDS	
BILLIE D MUELLER				[REDACTED]	03/30/14	08/16/14	
WFC NO	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS
260	I	01	\$ 326.00	\$ 6520.00	\$ 6520.00	\$ 0.00	03/29/15

DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 You are eligible for benefits from the above effective date.

1 ☒ You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR FAILING TO
1 PERFORM ASSIGNED WORK TO THE SATISFACTION OF YOUR EMPLOYER. FAILURE TO PERFORM IN A MANNER THAT
1 YOUR EMPLOYER HAD A REASONABLE RIGHT TO EXPECT IS A DISCHARGE FOR MISCONDUCT IN CONNECTION WITH
1 THE WORK UNDER THE SOUTH CAROLINA CODE SECTION 41-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20
1 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20 TIMES YOUR WEEKLY BENEFIT AMOUNT.

1 THE SEPARATION WAS A RESULT OF FAILURE TO PROCESS PAPERWORK SINCE THE MIDDLE OF 2013.

1 LAST SEPARATION FROM NON-LIABLE EMPLOYER

UI CLAIMS ADJUDICATOR

1 MAILING DATE 04/22/2014

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY WORKFORCE CENTER, BY MAIL, ADDRESSED TO THE 'APPEAL TRIBUNAL', P.O. BOX 555, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL CONTACT YOUR LOCAL WORKFORCE CENTER OR THE APPEALS DEPARTMENT AT: (803) 737-2520.

A#

RECORD ON APPEAL = 100

FILE NO.

REQUEST TO CHARGE

04/17/2014 10 16 8437561838

FAX

#6382 F 006/007

Performance Review Form - Salary - 2014

Part II: General Employee Attributes

(30% Weight)

1. Rate employee's flexibility when given new assignments and/or responsibilities
2. Rate employee's adherence to policies and procedures.
3. Rate employee's overall communication skills.
4. Rate employee's judgment when making decisions and completing tasks.
5. Rate employee's ability to work well with colleagues and management.
6. Rate employee's attendance:

Rating

M

M

M

M

M

M

Accomplishments or new abilities demonstrated since last review:

--

1 UCB-103
REV. 7/10

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
P.O. BOX 995, COLUMBIA, S.C. 29202

1 BILLIE D MUELLER

DATE OF THIS NOTICE 04/21/14

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE	DISQUALIFICATION ENDS	
BILLIE D MUELLER				[REDACTED]	03/30/14	08/16/14	
WFC NO.	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS
260	I	01	\$ 326.00	\$ 6520.00	\$ 6520.00	\$ 0.00	03/29/15

1 DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 _____ You are eligible for benefits from the above effective date.

1 X You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR FAILING TO
1 PERFORM ASSIGNED WORK TO THE SATISFACTION OF YOUR EMPLOYER. FAILURE TO PERFORM IN A MANNER THAT
1 YOUR EMPLOYER HAD A REASONABLE RIGHT TO EXPECT IS A DISCHARGE FOR MISCONDUCT IN CONNECTION WITH
1 THE WORK UNDER THE SOUTH CAROLINA CODE SECTION 41-35-120(2)(A). YOU ARE DISQUALIFIED FOR 20
1 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 20 TIMES YOUR WEEKLY BENEFIT AMOUNT.

1 THE SEPARATION WAS A RESULT OF FAILURE TO PROCESS PAPERWORK SINCE THE MIDDLE OF 2013.

1 _____ LAST SEPARATION FROM NON-LIABLE EMPLOYER

UI CLAIMS ADJUDICATOR

1 MAILING DATE 04/22/2014

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE DEPARTMENT UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY WORKFORCE CENTER, BY MAIL, ADDRESSED TO THE "APPEAL TRIBUNAL," P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202, OR BY FAX (803) 737-0287. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL WORKFORCE CENTER OR THE APPEALS DEPARTMENT AT (803) 737-2520.

A#

RECORD ON APPEAL = 102

FILE N



Billie Mueller Termination

Ms Mueller was terminated from Ebtron after repeated instances of insubordination, refusal to follow instructions, and failing to perform her duties properly, ultimately resulting in severe errors affecting sales associates' commissions, and errors in tax liability

Since 2012, her direct supervisor, Dick McKibben (Operations Manager) has experienced repeated issues of her failure to follow his instructions to perform her job, insubordination, poor attitude and mistakes

She was notified of these issues verbally by McKibben as they occurred, and he documented them at the same time. She was also notified of these problems officially at her 2013 performance review, held on February 5, 2014. She was placed on a 90-day probationary period (Performance Improvement Plan) at that time and was told she needed to improve immediately

On or around that time, the Company learned that she had failed to process paperwork since the middle of 2013 for certain sales associates' commissions and quarterly bonuses for the 4th quarter of 2013. This resulted in \$55,000 worth of errors affecting the sales associates, bonuses, and created substantial tax implications. She had concealed her failure to perform that work from the company for months, and others had to spend enormous amounts of time to correct those errors.

That failure to perform her job, coupled with her concealment of it for months, on top of her other performance related issues, resulted in her termination.

These performance and attitude related issues violated numerous company policies contained in the employee handbook, which has been communicated to the Claimant. They are

Policy #200.14 Discipline and Rules of Conduct:

- 200.14.3 Unacceptable job performance
- 200.14.4 Not completing assignment up to the quality standards of the Company
- 200.14.5 Failure or inability to cooperate with others
- 200.14.8 Failure or refusal to follow instructions
- 200.14.20 Demonstration of lack of courtesy towards other employees
- 200.14.23 Insubordination
- 200.14.26 Concealing defective work

1663 Hwy 701 S • Leno, SC 29569 USA
Toll Free 800.2EBTRON (800.232.8768) • Local Phone, +1 843 756 1828 • Fax: +1 843 756 1838
Internet: www.ebtron.com • e-Mail: greem@ebtron.com

EBTRON, Inc. IS AN "AT-WILL," EQUAL OPPORTUNITY EMPLOYER

A#

RECORD ON APPEAL = 103

FILE NO



Policy #200.22 Customer and Fellow Employee Relations.

"Employees of the Company are expected to treat clients and fellow employees courteously and with the utmost respect at all times. Employees must attend to clients' questions and demands promptly and professionally ..."

1663 Hwy. 701 S. • Loris, SC 29569 USA
Toll Free. 800.2EBTRON (800.232.8766) • Local Phone: +1.843.766.1828 • Fax +1 843 756.1838
Internet: www.ebtron.com • e-Mail: oream@ebtron.com
EBTRON, Inc. IS AN "AT-WILL," EQUAL OPPORTUNITY EMPLOYER

Performance Review Form - Salary - 2014

Employee Name: Billie Mueller Job Title: Sales Admin Supervisor
 Review Date: Supervisor: Dick McKibben
 Review Type: Annual Review Period: 01/01/13 to 12/31/13

Performance Rating Categories: Consider the employee's performance in each category and designate the level of performance that most accurately describes her/his job performance

[O]utstanding: Employee consistently exceeds position expectations with virtually no detected preventable/avoidable errors, requiring little or no supervision

[E]xceeds Expectation: Results clearly exceed position requirements on a regular basis. Performance is of high quality and is achieved on a consistent basis.

[M]eets Expectation: Competent & dependable performance level. Meets the performance standards and objectives of the job without constant follow-up and/or direction.

[B]elow Expectation: Employee does not meet performance objectives on a regular basis and has difficulty following through with tasks. Requires constant follow-up and/or supervision.

[I]mmediate Improvement Needed: Employee must correct performance immediately.

Part I: Major Job Responsibilities (No more than 5) (70% Weight)

The Employee and Manager list major job responsibilities in order of importance and identify how they will be measured. Assign a percentage value to each major job responsibility based on the percentage of job responsibility time (Total MUST equal 100%). At the end of the rating period, place a rating letter in the box. Record comments on a separate piece of paper, if necessary.

% of Job	Job Responsibility	Rating
50%	Supervise and help perform daily sales administrative activities. Work to train and develop current and new administrative staff. Follow-up to assure all necessary tasks are completed correctly and on-time. Keep accurate records of admin errors for weekly review.	B
35%	Accept your role as Office Manager. Make decisions related to daily office events and problems. Establish guidelines for each office employee and hold them accountable for their job responsibility. Conduct necessary follow-ups and audits to assure jobs are being performed to our expectations. Hold regular meetings with the group to communicate information and convey instructions to them.	B
15%	Improve your relationships with others at Ebtron. Resist the temptation to comment on what others are not doing and focus on what you and your team can do. Treat all Reps and employees equally. Report failures of other departments and people directly to Dick.	M

SCDEW

APR 21 2014

Received Benefits Div

Performance Review Form - Salary - 2014

Part II: General Employee Attributes

(30% Weight)

1. Rate employee's flexibility when given new assignments and/or responsibilities
2. Rate employee's adherence to policies and procedures.
3. Rate employee's overall communication skills.
4. Rate employee's judgment when making decisions and completing tasks.
5. Rate employee's ability to work well with colleagues and management.
6. Rate employee's attendance:

Rating

M

M

M

M

M

M

Accomplishments or new abilities demonstrated since last review:

--

Specific areas of needed improvement:

Billie has not accepted her role as supervisor. There has been little or no demonstrated leadership exhibited by her toward the Sales Admin group. Employee errors have neither been kept on a consistent basis nor have they been reviewed regularly as required. Greg McBride and I have been required to intervene with the staff to attempt to keep the group functioning properly. Probation action plan will be submitted

Employee Comments:

Did not get the info that was discussed at last review that I stated I needed B.M.

Date Discussed/Reviewed with employee 1/1/14

Follow-up required YES / -NO

Employee Signature

Billie Mueller

Manager Signature

*Phil Miller**Mr. Miller**[Signature]*Date: 02/05/14 **CDEW**Date: 2/5/14 APR 21 2014

2/15/2014 Received Benefits Div

UCB1G11
REV. 07/02

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE

NAME: BILLIE D MUELLER		SSN: [REDACTED]	BYE: 03/29/15															
CLAIMSTAKER ID:	WFC #: 260	FILED: 04/04/14	EFF DATE: 03/30/14															
MAILING ADDRESS: [REDACTED]																		
CITY: [REDACTED]		STATE: [REDACTED]	ZIP: [REDACTED]															
OTHER NAME: BILLIE D MUELLER																		
<table border="0" style="width: 100%;"><tr><td>☒ 1-UI</td><td>☐ 4-UI/UCFE/UCX</td><td>☐ 7-UCX</td><td>☒ NEW</td><td>☐ TRANSITIONAL</td></tr><tr><td>☐ 2-UI/UCFE</td><td>☐ 5-UCFE</td><td>☐ 8-CW</td><td>☐ ADDITIONAL</td><td>☐ R-ADD</td></tr><tr><td>☐ 3-UI/UCX</td><td>☐ 6-UCFE/UCX</td><td>☐ OTHER</td><td>☐ CONTINUED</td><td></td></tr></table>				☒ 1-UI	☐ 4-UI/UCFE/UCX	☐ 7-UCX	☒ NEW	☐ TRANSITIONAL	☐ 2-UI/UCFE	☐ 5-UCFE	☐ 8-CW	☐ ADDITIONAL	☐ R-ADD	☐ 3-UI/UCX	☐ 6-UCFE/UCX	☐ OTHER	☐ CONTINUED	
☒ 1-UI	☐ 4-UI/UCFE/UCX	☐ 7-UCX	☒ NEW	☐ TRANSITIONAL														
☐ 2-UI/UCFE	☐ 5-UCFE	☐ 8-CW	☐ ADDITIONAL	☐ R-ADD														
☐ 3-UI/UCX	☐ 6-UCFE/UCX	☐ OTHER	☐ CONTINUED															
BONA FIDE EMPLOYER NAME & PAYROLL ADDRESS INFORMATION:			DATES OF EMPLOYMENT:															
NAME: EBTRON, INC.																		
STREET: 1663 HIGHWAY 701 S																		
CITY: LORIS ST: SC ZIP: 29569			FROM: 09/26/86 TO: 04/04/14															
			EMP. ACCT. # [REDACTED]															
BONA FIDE EMPLOYER LOCAL ADDRESS INFORMATION:																		
STREET:																		
CITY: LORIS ST: SC ZIP: PHONE #:(908) 359-7960																		
SEPARATION REASON: ☐ LOW ☐ VQ ☒ DISCHARGE ☐ STILL WORKING																		
ISSUE CODES: 01																		
LIABLE EMPLOYER INFORMATION:			DATES OF EMPLOYMENT:															
NAME: EBTRON, INC. EMP. ACCT # [REDACTED]																		
JOB LOCATION (CITY/STATE): LORIS, SC			FROM: 09/26/86 TO: 04/04/14															
SEPARATION REASON: ☐ LOW ☐ VQ ☐ DISCHARGE ☐ STILL WORKING																		
NARRATIVE REASON FOR SEPARATION FROM LIABLE EMPLOYER:																		



SC Department of Employment and Workforce Discharge Report

SSN: [REDACTED]
Claimant's name: BILLIE D MUELLER
Date of birth: [REDACTED]
Local office: 260
Benefit year begin date: 3/30/2014
Benefit year end date: 3/29/2015
Claim type: New
Potentially Eligible: No
Employer name: EBTRON INC.
Employer Account #: 289798
Hire date: 9/26/1986
Termination date: 4/4/2014
Discharge reason: Discharged
Earned at least \$2608: Yes
Bonafide: Yes

Discharge

Discharge Reason: Other

Date of final incident: 2/20/2014
Final incident that caused discharge:
DID NOT WORK UP THE DISBURTION OF COMMISSIONS IN A TIMELY MANNER
Discharge date: 4/4/2014
Reason for delay between final incident and date of discharge: Other
Further details about delay between final incident and discharge date:
DO NOT KNOW FOR SURE
Discharged by: DAVID S. DOUGAN
Title of person who discharged you: PRESIDENT
Violated company policy: No
Final incident impacted employer's business: No
Received prior warnings: No

4/21/2014 8:37:48 AM



SC Department of Employment and Workforce FFATNET Report

MUELLER, BILLIE

(843) 756-1296

Gender: F

dinker@sccoast.net

Date of Birth: [REDACTED]

Claim Office: 260

Effective Date: 3/30/2014

Entered On: 4/4/2014

BYE: 3/29/2015

WBA: \$326.00

Interview Appointments:

Issues:

Employers:

Employer Name: EBTRON, INC.

Bonafide employer: Yes

Hire date: 9/26/1986

Termination date: 4/4/2014

Earned at least \$2,608.00: No

Owner or corporate officer of a business: No

Employer Acct Number: 289798

NAICS Code: 334512550

Claimant Separation Reason: Discharged

Employer Separation Reason:

Total Wages: \$57,039.35

Employer Issues:

Kind Description

Discharge

Create Date

4/4/2014 12:00:00 AM

Last Modified Time

4/17/2014 10:54:57 AM

Attachment Info

Description

Created Time

Upload Date

Contact Attempts:

Contact Whom:	Employer	Co
Contact Type	Phone	
Created Date	4/15/2014 11:19:23 AM	
Action Data:	Called Phone Number 8437561828	
Note	Made 48 hrs	

Contact Outcome: Left Voice Mail

Note Made 48 hrs attempt to request employer. Lft message w/ Greg McBride in HR. Informed employer of 48 hr deadline. Due by 11:16am on 4/17/14.

Contact Whom:	Claimant	Co
Contact Type	Phone	
Created Date	4/17/2014 11:08:13 AM	
Action Data:	Called Phone Number 8437561296	
Note		

Contact Outcome: Contacted Successfully

Claimant Rebuttals:

Employer Name
EBTRON, INC.

Agree With Employer
False

Statement

If my work was so poor and unreliable, why are they offering me a severance package in which I have not signed yet. Nothing was stated at the time I was let go. I worked there 28 years and told that this would be a good time for me to retire. I was placed on a probationary period and was let go prior to the 90 days ending.

Employer Rebuttals:

History Events:

FactFindingIssueCreated at 4/4/2014 2:57:17 PM by BILLIE D MUELLER
(PUBLIC\INKER): Created 'Discharge' Fact Finding Issue for employer 'EBTRON,
INC.' with status Submitted as part of submit Claim Application.

FactFindingCreated at 4/4/2014 2:57:17 PM by BILLIE D MUELLER
(PUBLIC\INKER): Fact Finding was created as part of submitting a Claim
Application by BILLIE D MUELLER(PUBLIC\INKER)

StatusChanged at 4/4/2014 3:05:48 PM by SCES\SMHarris: Status changed from Initial Claim to Review by the trigger Claim Submit to ABPS.

CheckOut at 4/15/2014 11:12:05 AM by SCES\NArmstrong: Fact Finding checked out.

FactFindingIssueStatusChange at 4/15/2014 11:13:13 AM by SCES\NArmstrong:
Fact Finding Issue " Status changed from 'Submitted' to 'Reviewed' by the trigger
'Review Complete'. Employer Name: EBTRON, INC.

SuccessfulEmployerContact at 4/15/2014 11:19:23 AM by sces\narmstrong:
Employer via Phone with outcome Left Voice Mail Notes:'new notetest': 'Made 48 hrs
attempt to re...'

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3 Certificate of Appellant
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5 The undersigned hereby certifies that the Amended Record on Appeal contains all material
6 proposed to be included by any of the parties and not any other material.

7 October 21, 2016

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9 Billie D. Mueller

10 PO Box 98

11 Davis Station, SC 29041

12 (803) 410-6935

13 Appellant has no Attorney

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OCT 31 2016

SC Court of Appeals