

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LEROY REICHENBACH**  
Claimant

**APPEAL NO. 12A-UI-05988-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GIPH RESTAURANTS LLC**  
Employer

**OC: 04/22/12  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated May 11, 2012, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on June 18, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer. Dennis Sailors was listed as the employer's representative for the hearing, but was not available when called for the hearing. This decision is a duplicate of the decision in Appeal 12A-UI-05989-SWT because wages were reported under two employer account numbers for what appears to be the same employment.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked as a shift manager for the employer from January 11, 2010, to April 21, 2012. The manager, Dennis Sailor, discharged the claimant because his work was unsatisfactory and not up to company standards.

The claimant had been disciplined once in 2011 for being late for work. He had never been informed that his job was in jeopardy. He never deliberately violated any written work rules or neglected his job duties.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the

employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6, 11 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

No willful and substantial misconduct has been proven in this case. The employer has not met its burden of proving the claimant is disqualified from receiving benefits.

**DECISION:**

The unemployment insurance decision dated May 11, 2012, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw