

money. (6:49-6:58) When she realized her mistake, she promptly asked the attending supervisor (Lori O'Donnell-sp?) if she should contact the customer to which Ms. Ringwald was told 'not to worry about it.' (11:12-11:56; 12:26-12:47) The Claimant then documented that she did get the prior approval. (14:50-15:42)

When asked the following day, the Claimant indicated that she had been confused between two different customers. (16:06-16:19) The Claimant had no prior warnings for any prior infractions. (9:16-9:24) The Employer terminated the Claimant for falsification of company documents on January 6, 2014. (5:59-6:16; 6:32)

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.5(2)(a) (2013) provides:

Discharge for Misconduct. If the department finds the individual has been discharged for misconduct in connection with the individual's employment:

The individual shall be disqualified for benefits until the individual has worked in and been paid wages for the insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The Division of Job Service defines misconduct at 871 IAC 24.32(1)(a):

Misconduct is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in the carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The Iowa Supreme court has accepted this definition as reflecting the intent of the legislature. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665, (Iowa 2000) (quoting Reigelsberger v. Employment Appeal Board, 500 N.W.2d 64, 66 (Iowa 1993)).

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 (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 NW2d 661 (Iowa 2000).

The findings of fact show how we have resolved the disputed factual issues in this case. We have carefully weighed the credibility of the witnesses and the reliability of the evidence. We attribute more weight to the Claimant's version of events. The record establishes that the Claimant had no prior incidents involving policy violations, namely the falsification of documents policy. She provided a plausible explanation as to how she committed her mistake, which she immediately attempted to rectify by consulting her immediate supervisor who told her 'not to worry about it.' Ms. Ringwald, mistakenly, took Lori's remark as an authorization, albeit after the fact, to allow the customer the refund. In viewing this record as a whole, we conclude that this documentation incident was, at worst, an isolated instance of poor judgement that didn't rise to the legal definition of misconduct.

DECISION:

The administrative law judge's decision dated March 12, 2015 is **REVERSED**. The Claimant was discharged for no disqualifying reason. Accordingly, the Claimant is allowed benefits provided she is otherwise eligible.

Ashley R. Koopmans

James M. Strohman

DISSENTING OPINION OF KIM D. SCHMETT:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would affirm the administrative law judge's decision in its entirety.

Kim D. Schmett

AMG/fnv