

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY J PENRY
Claimant

APPEAL NO: 13A-UI-06208-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

**OC: 04/21/13
Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's May 15, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated in the hearing with her witness, Dan Penry. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in March 1997. She worked 16 to 20 hours a week primarily as a donut maker. During the last five years of her employment, after L. was the manager. The claimant and L. had problems getting along. L. never seemed satisfied with the claimant's work or what she did for the employer.

In mid-April 2013, L. accused the claimant of leaving work late because she had been talking with her son for 15 to 20 minutes during her shift. The claimant has not talked to her son at work for more than a minute a time during a shift. The claimant's son was a regular customer. After L. falsely accused the claimant of doing something she had not, the claimant told L that what she accused the claimant of doing was not true. Later, the claimant's son talked to L. and also told her that his mother had never talked to him at work for more than a minute. The next day or on April 24, 2013, the employer gave the claimant a written warning and discharged her for treating the manager rudely and without respect. The employer also mentioned that the claimant did not report to work on time. The claimant was surprised she had been discharged.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a.

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 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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer may have had business reasons for discharging the claimant when she and the manager had on-going conflicts. The evidence does not establish that the claimant committed work-connected misconduct. As of April 21, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's May 15, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but did not establish that she committed work-connected misconduct. As of April 21, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs