

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STACIA GARLAND**  
Claimant

**APPEAL NO: 16A-UI-13303-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEABOARD FOODS SERVICES INC**  
Employer

**OC: 11/13/16**  
**Claimant: Respondent (3)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the December 6, 2016, reference 01, decision that allowed benefits to the claimant during a two-week notice period. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on January 6, 2017. The claimant participated in the hearing. Erin Hyde, Human Resources Supervisor, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time team member for Seaboard Foods Services from July 7, 2016 to November 17, 2016. The claimant was working for the employer's predecessor when it acquired the company February 7, 2016.

The claimant applied for a job with Iowa Select because it paid a higher wage but did not receive an offer to work there. The employer learned the claimant applied with its competitor and on November 17, 2016, told her to finish washing a room and then she could leave as she was "done." The claimant's manager did not give her a reason for her dismissal but the claimant assumed it was because she applied at Iowa Select and it is the employer's policy to immediately terminate an employee who is leaving to work for a competitor. The claimant did not challenge the employer's decision even though it was based on incorrect information.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

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

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

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

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

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proving disqualifying misconduct. *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 N.W.2d 661, 665 (Iowa 2000).

While the claimant applied for a position at Iowa Select because it paid a higher hourly wage, she did not receive an offer from Iowa Select and consequently was not planning to leave her current position with the employer. When the employer learned she may be leaving for a competitor it terminated her employment. The employer has the right to discharge an employee for any reason or no reason at all. The question in an unemployment case is whether the claimant's actions constitute disqualifying job misconduct. Applying for work with another employer, even if that employer is a competitor, is not work-related misconduct as that term is defined by Iowa law. Therefore, benefits are allowed.

**DECISION:**

The December 6, 2016, reference 01, decision is modified in favor of the claimant/appellant. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, effective the week ending November 18, 2016, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/rvs