

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

COLLEEN F MCCOY
512 N 2ND ST
FARMINGTON IA 52626

REMEDY TEMPORARY SERVICES INC
C/O TALX UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 05A-UI-07555-DWT
OC: 06/19/05 R: 04
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Remedy Temporary Services, Inc. (employer) appealed a representative's July 12, 2005 decision (reference 01) that concluded Colleen F. McCoy (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 9, 2005. The claimant participated in the hearing. Angie Vaughn, the on-site manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

The claimant registered to work for the employer on March 7, 2005. The employer is the staffing firm for one business. The claimant started working on March 7, 2005. Celeste was the claimant's supervisor and Vaughn was the employer's on-site manager.

During the course of her employment, the claimant worked various jobs because the employer has the employees rotate jobs. This is done so employees do not develop medical problems. On June 22, 2005, the claimant reported to work as scheduled at 6:00 a.m. The claimant was extremely tired and asked Celeste if she could go home early. Celeste gave the claimant authorization to leave during the first break.

Prior to the first break, a relatively new employee complained to Celeste that the claimant was not rotating when other employees were required to. The claimant and another employee were in non-rotating jobs that day and rotated jobs between themselves every hour. After listening to the employee's complaint, Celeste confronted the claimant about refusing to rotate. When the claimant indicated she had problems working with a particular individual, Celeste responded by telling the claimant that she had problems working with the claimant. The claimant did not believe Celeste treated her fairly that morning because the claimant was in a non-rotating job that day. When the first break came, the claimant left work as Celeste had previously authorized her to do.

The employer understood the claimant walked off the job on June 22 and refused to follow her supervisor's direction to rotate jobs on June 22. The claimant was not scheduled to work the next day. On June 24, the employer contacted the claimant and told her she had been discharged because she walked off the job and refused to rotate jobs on June 22, 2005.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's testimony is credible as to what happened the morning of June 22, 2005. Therefore, the claimant's testimony must be given more weight than the employer's reliance on unsupported hearsay information from a person who did not testify at the hearing. Based on an inaccurate report of what happened on June 22, the employer discharged the claimant for business reasons. The facts do not establish that the claimant committed any work-connected misconduct. Instead, the claimant rotated with another employee who was also in a non-rotating job on June 22 and the claimant received prior authorization to leave work early on June 22 because she did not feel well. As of June 19, 2005, the claimant is qualified to receive unemployment insurance benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's July 12, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of June 19, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

dlw/pjs