

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MIRTA J MEDINA**  
Claimant

**APPEAL NO. 07A-UI-09822-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CURLYS FOODS**  
Employer

**OC: 09/23/07 R: 01  
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated October 18, 2007, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on November 6, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing with an interpreter, Oliver Koch. Betty Lopez participated in the hearing on behalf of the employer. Exhibits One through Three, A, and B were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a day-shift production worker from April 13, 2005, to August 17, 2007. The claimant is an immigrant and was working for the employer with a valid work authorization. The work authorization was set to expire on August 21, 2007.

The claimant was aware that it could take up to three months to renew her work authorization. She submitted her application for renewal with enough time to receive it before her work authorization expired. The claimant knew that the employer could not allow her to work without a valid work authorization.

When she had not received her work authorization renewal by August 17, 2007, she applied for and received a one-week leave of absence specifically based on obtaining her work authorization. When she had not received her work authorization by August 24, she applied for and received another one-week leave of absence. Finally, when she had not received her work authorization by September 4, she applied for and received a one-week leave of absence through September 7. She was scheduled to return to work on September 10.

By September 7, the claimant still had not received her work authorization. She contacted Anna Savala, the secretary in the human resources department, and asked her what she should do. She was told to call back on Monday if she had not received her work authorization. The

claimant called Savala on September 10 and told her that she still did not have her work authorization. Savala told her she could not receive another leave of absence and to contact the employer when she received her work authorization.

The claimant received her work authorization on September 20. On September 21, the claimant spoke with Savala. Savala told her the employer did not have job for her. She told the claimant that she could apply for work in the future, but the employer was not taking applications at that time.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant was entirely credible in explaining that she never told Salava that she was quitting her job. The employer's evidence to the contrary is a hearsay statement that Salava wrote down in the log. The claimant's evidence outweighs the employer's evidence. The claimant did not voluntarily quit employment.

Understandably, the employer could not allow the claimant to work without her work authorization, but the claimant was not at fault for the delay in processing her renewal. The employer terminated the claimant because she did not have a valid work authorization and based on its policy of granting a maximum of three weeks to obtain a work authorization card. No willful and substantial misconduct as defined in 871 IAC 24.32(1) has been proven in this case.

**DECISION:**

The unemployment insurance decision dated October 18, 2007, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs