

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHASIDY ZWECK**  
Claimant

**APPEAL NO: 16A-UI-07845-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RYDER INTEGRATED LOGISTICS INC**  
Employer

**OC: 06/19/16**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the July 7, 2016, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 5, 2016. The claimant participated in the hearing. Lisa Even, Human Resources Generalist, 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 clerical loader for Ryder Integrated Logistics from September 3, 2013 to February 1, 2016. She was discharged because the employer believed she was a three-day no-call/no-show.

The employer has a personal leave policy which can be used after an employee's FMLA is exhausted. Under the personal leave policy, an employee must complete the required paperwork that defines the time period the employee will be gone and must receive the approval of her manager. The employee must take a minimum of seven personal leave days and has a maximum of 90 personal days available. Once the leave is approved the employee does not have to call in everyday and report her absences.

The claimant's 11-year-old daughter is ill and the claimant exhausted her FMLA August 18, 2015. On January 27, 2016, the claimant called her manager, Zack Kern, to request personal leave beginning January 28, 2016, because she needed to take her daughter to the Mayo Clinic in Rochester, Minnesota. Mr. Kern approved her request. The claimant returned home February 6, 2016, and when she checked her mail she found a letter from the employer stating she voluntarily quit her job by failing to call or show up for work January 28, 29, and February 1, 2016.

## 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).

The claimant requested and was granted personal leave by her manager, Mr. Kern, January 27, 2016. The claimant knew she had to take at least seven days off and believed her position with the employer was secure, until she received the letter from the employer stating she voluntarily quit her job by failing to call the employer or report for work for three consecutive workdays in violation of the employer's policy. In order for an employee to voluntarily quit, she must have an

intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant had no intention of quitting her job when she spoke to Mr. Kern. She requested the personal leave from Mr. Kern in order to take her daughter to the Mayo Clinic. Additionally, because she believed she was on personal leave, she was not required to call in and report her absences each day she was gone.

Under these circumstances, the administrative law judge concludes the claimant did not voluntarily leave her employment. Instead, the employer concluded the claimant failed to call to report her absences or show up for work for three consecutive workdays in violation of the employer's policy and sent her a letter stating she quit her job. The evidence does not demonstrate the claimant quit her job. She reasonably believed she was approved for a personal leave and consequently did not have to call in to report her absences. The employer has not established the claimant voluntarily quit her job or that she committed any intentional job misconduct as is required before a claimant would be denied benefits. Therefore, benefits are allowed.

**DECISION:**

The July 7, 2016, reference 01, decision is affirmed. The claimant did not quit her job and the employer has not demonstrated any intentional misconduct on the part of the claimant. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs