

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**GABRIELLE N RECKENBERG**  
Claimant

**APPEAL NO: 18A-UI-03529-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEABOARD FOODS SERVICES INC**  
Employer

**OC: 02/11/18**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 9, 2018, 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 April 11, 2018. The claimant participated in the hearing. Erin Hyde, Human Resources Manager, 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 II for Seaboard Foods Services, Inc. from August 11, 2016 to February 1, 2018. She was discharged for allegedly failing to follow the employer's procedures.

On July 11, 2017, the claimant received a written warning for neglecting to clean out the feeders and failure to properly remove dead animals. On August 28, 2017, the claimant received a final written warning for the same violations. After the final written warning, the claimant asked Assistant Manager Jill Hines after the room inspections were completed if there was anything she needed to work on or fix and every day Ms. Hines told her everything was fine. Ms. Hines did walk through tours of the rooms and stated there was nothing wrong and nothing the claimant needed to do to improve. The employer notified the claimant February 1, 2018, that her employment was terminated for failing to clean out the feeders completely, failing to properly remove dead animals, and failing to euthanize animals that met the criteria. The claimant's direct manager was on leave for several months. Before he left he told the claimant to perform the job the way he taught her. He and Ms. Hines had different methods. The claimant's manager told her not to empty the feeders completely but Ms. Hines told her to completely empty the feeders. The claimant tried to remove all dead animals but with 600 to 800 piglets per room she occasionally missed a dead animal behind a feeder or under a sow. She usually

asked Ms. Hines about euthanizing animals as the employer did not want employees to euthanize too many animals but also did not want to prolong treatment longer than necessary.

### **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 section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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 may have made some errors, the manager and assistant manager had different expectations and did not agree on how to perform all tasks. The claimant asked the employer every day if there was anything she needed to do differently and was always told she was doing "fine." The evidence does not suggest the claimant was not performing the job to the best of her ability or that she engaged in intentional job misconduct as that term is defined by Iowa law. Therefore, benefits must be allowed.

**DECISION:**

The March 9, 2018, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. 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/scn