

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRENNA L GRIFFITH
Claimant

APPEAL NO: 14A-UI-08510-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEATON INC
Employer

OC: 07/13/14
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 4, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the September 26, 2014 hearing. Kathy Frerichs, the controller, appeared on the employer's behalf. During the hearing, Employer Exhibits One through Six were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in November 2008. She worked part time as a crew employee. The claimant understood the employer expected employees to work as scheduled.

During her employment, the claimant received some written warnings. The claimant received a written warning on February 23, 2014, for reporting to work 38 minutes late. (Employer Exhibit Six.) On May 4, the claimant received a written warning for failing to report to work or finding someone to replace her. (Employer Exhibit Five.) On June 22, 2014, a different manager gave the claimant a verbal warning for reporting to work 20 minutes late. The warning indicated that future incidents would result in more write ups which could lead to her termination. (Employer Exhibit Four.) On July 15, the claimant overslept and called the employer when she woke up. As a result of oversleeping, the claimant was about an hour late for work.

On June 28, the claimant received a written warning for allowing a new employee to get on her register. (Employer Exhibit Three.) As a result of both the claimant and new employee working the cash register, the drawer was \$100 short that day. On June 28, the claimant understood the manager assigned the new employee to the claimant's register. The claimant had no understanding the new employee was only supposed to watch the claimant. As a result of this

incident, the employer then required cashiers to verify the amount of money in a drawer before using the drawer. The claimant received counseling on July 12 for a \$10 cash shortage. The counseling form does not indicate what disciplinary action was taken. (Employer Exhibit Two.)

In addition to being about an hour late for work on July 15, the claimant's cash register draw was also \$20 short on July 15. Since the claimant was late for work and had a cash shortage of \$20 on July 15, the employer discharged her. The claimant's termination paper indicates she had been late many other times. (Employer Exhibit One.)

The claimant acknowledged she had verified the amount of cash in the cash register drawer before she started and she was \$20 short on July 15. The claimant did not know how she could have made such a mistake. Based on her employment since 2008, some managers write up employees for reporting to work late and some do not. An employee, who the claimant knew frequently reported to work late, had been promoted as a shift leader instead of being discharged.

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Even though the employer's documents indicate the claimant was late for work many times, the evidence establishes in 2014 she was late for work three times. (Employer Exhibits One, Four and Five.) The claimant had some recent cash shortages, but the evidence does not establish that she intentionally intended to short change her cash register drawer. The June 22 incident may amount to poor judgment, but the facts do not establish that the claimant took any money or did not anything to disregard the employer's interests. It is interesting that none of the warnings the claimant received indicated she was suspended, on a disciplinary probation or that further discipline would result in her termination. (Employer Exhibits Two through Six.)

The employer established business reasons for discharging the claimant. The evidence does not establish that the claimant was excessively absent from work or late for work to such a degree that amounts to work-connected misconduct. Working a cash register requires an employee to be careful and accurate when accepting money and making change for customers. While the employer had a right to be concerned that the claimant had recent cash shortages of \$10 and \$20, the employer did not establish that the claimant did anything that amounts to work-connected misconduct. As of July 13, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's August 4, 2014 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the evidence does not establish that the claimant committed work-connected misconduct. As of July 13, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs