

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBORAH MILLER
Claimant

APPEAL NO: 14A-UI-01086-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

H J DANE LAW OFFICES
Employer

OC: 03/31/13
Claimant: Respondent (1)

Iowa Code § 96.5(2) - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's January 22, 2014 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated in the February 19 hearing. Breanne Schadt, a partner and the claimant's supervisor, and Ruth Sullivan, a paralegal, appeared on the employer's behalf. 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 reasons constituting work-connected misconduct?

FINDINGS OF FACT:

Schadt hired the claimant to work as her full-time paralegal on October 28, 2013. The claimant understood she was a 90-day probationary employee. Schadt had high expectations from the claimant because she previously worked for one of Schadt's partners and the claimant had 15 years' experience as a paralegal.

After the claimant began working, she made basic errors. The claimant did make changes on documents that Schadt indicated she wanted. Schadt discovered a couple of court dates or deadline dates were not on her calendar. Schadt held the claimant responsible for making sure her calendar was current and correct. Schadt came to the conclusion that the claimant did not care about her job. Schadt checked and triple checked the claimant's work to make sure there were no mistakes. Schadt did not trust the claimant. The claimant concluded that no matter what she did Schadt would not be satisfied with her work performance. On December 6, the claimant signed a written warning for unsatisfactory work performance.

On December 16, Schadt had to send in documents for a large Federal case. She had already received an extension and knew the December 16 deadline could not be missed. There were approximately 1200 documents that had to be scanned on a computer. It was decided on December 13 that another paralegal's computer would be used to scan the documents on

December 16. During the day of December 16, Schadt made changes in the order of the documents. Schadt gave the claimant the completed documents to scan by midafternoon.

After giving the claimant the documents, Schadt kept asking the claimant if she had started scanning the documents. Sullivan, another paralegal, even talked to the claimant about getting the documents scanned. The claimant did not think it would take very long to scan the documents. She started scanning the documents around 5 p.m. The claimant had unforeseen problems with the computer jamming up. When the claimant left work after 5:20 p.m. she believed all the documents had been properly scanned. The employer had another employee finish the project the next morning.

Schadt discharged the claimant as of December 16 not only for unsatisfactory performance, but also because she concluded the claimant intentionally failed to follow her instructions in getting the documents for the Federal scanned in a timely manner.

The claimant reopened her claim for benefits during the week of December 15, 2013. She filed claims for the weeks ending December 21 and 28, 2013. The claimant received \$278 in benefits for the week ending December 21 and \$315 in benefits for the next week. The employer is not one of the claimant's base period employers during her current benefit year.

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).

The evidence establishes the claimant's work performance did not meet Schadt's high professional expectations. While the claimant made some basic mistakes, some of the problems Schadt attributed to the claimant were done by her. As Schadt's paralegal, she was ultimately responsible for making sure Schadt's calendar was current and correct. Schadt had the right to expect that her paralegal would meet her expectations and the claimant did not. It is understandable why Schadt kept asking the claimant on December 16 if the documents had

been scanned. Schadt had a deadline to meet in a large Federal case. Unfortunately, the claimant did not realize how long it would take to scan all the documents, especially if there were problems getting the documents scanned, which there were. By late afternoon on December 16, the claimant and Schadt were both frustrated. This was the last straw for Schadt and she discharged the claimant.

The employer established justifiable business reasons for discharging the claimant. While the claimant used poor judgment by starting the scanning project late in the afternoon, the evidence does not establish that she intentionally disregarded the employer's interests. The claimant did not commit work-connected misconduct. As of December 15, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements.

DECISION:

The representative's January 22, 2014 determination (reference 02) is affirmed. The employer discharged the claimant, a probationary employee, for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of December 15, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs