

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACEY A MURPHY
Claimant

APPEAL NO: 07A-UI-08162-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CALERIS INC
Employer

**OC: 07/22/07 R: 01
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Tracey A. Murphy (claimant) appealed a representative's August 15, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Caleris, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 11, 2007. The claimant participated in the hearing. Stacey Springer, the executive director, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on May 5, 2006. The claimant worked full time.

On July 8, 2007, the claimant asked for time off on July 20 and 21. The employer told the claimant this may not be possible because her supervisor was off these two days also. On July 16, the claimant left work early because she was ill. After leaving work early, the claimant only had four hours of PTO time left. On July 17, the employer denied the claimant time off on July 20 and 21. The employer denied her request because her supervisor was not going to be at work these days so the employer needed the claimant at work and she only had four hours of PTO time remaining.

The claimant did not report to work on July 20 because she went to North Dakota to pick up her boyfriend. He had been gone for six months and she did not want him to wait for someone to pick him up in a few days. The claimant decided that the two employees who were at work would be able to handle any issues that arose. When the claimant called them a couple of times on July 20, they did not make her aware of any problems. These employees, however, contacted Springer when they did not know what to do on July 20.

The claimant got back from North Dakota in time to report to work as scheduled at 1:00 p.m. on July 21. The claimant had to take her son back to his father on July 21, 2007. The claimant could not ask anyone else to take her son and the boy's father would not agree to the claimant bringing the boy back at another time. The claimant left work at 4:30 p.m. to take her son to Ottumwa where his father picked him up. The claimant was scheduled to work until 10:00 p.m.

Although the claimant's job was not in jeopardy prior to July 20, the employer discharged the claimant because she failed to work as scheduled on July 20 and 21.

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 section 96.5-2-a.

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's refusal to work as scheduled on July 20 because she went to North Dakota to pick up her boyfriend amounts to an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. The employer told her on July 8 that it was doubtful that she would be granted time off on this day. This gave the claimant an opportunity to make other arrangements regarding her boyfriend, but she did not. The claimant's actions on July 20 amount to insubordination or work-connected misconduct. Therefore, as of July 22, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 15, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is

disqualified from receiving unemployment insurance benefits as of July 22, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs