

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN R FRITZ**  
Claimant

**APPEAL NO. 14A-UI-05020-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CBOCS INC**  
Employer

**OC: 04/20/14  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated May 7, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on June 3, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Dave Mather participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked as an as associate manager from January 1998 to April 21, 2014. He was informed and understand that harassing conduct was prohibited.

A hearing-impaired employee complained that the claimant had covered his mouth to prevent the employee from reading his lips when speaking to other employees and had recently pulled up a chair and got out a clipboard to monitor the employee's work habits, which the employee considered harassing.

The claimant did not intend to harass the employee. He had been told by his supervisor to monitor employee's performance using a checklist. He felt that he and the employee had a good relationship, that include some kidding around at work.

The employer discharged the claimant on April 21, 2014, for his conduct toward the hearing-impaired employee.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Iowa Code § 96.6-2; Cosper v. Iowa Department of Job Service, 321 N.W.2d 6, 11 (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).

No willful and substantial misconduct has been proven in this case. At most the claimant made an isolated error in judgment in his conduct toward the employee.

**DECISION:**

The unemployment insurance decision dated May 7, 2014, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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