

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LOURIE FOX**  
Claimant

**APPEAL NO: 16A-UI-10826-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALDI INC**  
Employer

**OC: 08/28/16  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct  
Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the September 27, 2016, reference 03, 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 October 19, 2016. The claimant participated in the hearing. Rebecca Stoughton, District 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 associate for Aldi from July 18, 2016 to August 30, 2016. She was discharged for making disparaging comments about the employer and contributing to low morale in the store.

On August 8, 2016, District Manager Rebecca Stoughton and Store Manager Samantha Bohannon met with the claimant and conducted her review. They asked her how things were going and she complained that the training was rushed and she wanted to focus on one new item per day. The employer agreed to that strategy. The claimant also stated that communication at the store was “off” and employees became frustrated with her when she did not understand something right away. The employer mentioned the claimant called in July 28 or 29, 2016, but failed to properly report her absence by speaking directly with the store manager. The claimant stated she was unaware of what she was expected to do and the employer explained proper procedure. The claimant had completed about 50 percent of her computer training and the employer told her to finish the training that week and to provide Store Manager Samantha Bohannon with a list of everything she was not comfortable with and for which she wanted additional training.

On August 15, 2016, Ms. Stoughton checked in with the store and learned the claimant had not completed her computer training or provided Ms. Bohannon with the list they discussed at the claimant's review.

On August 27, 2016, at 7:50 a.m. the shift manager texted Ms. Stoughton and stated the claimant was "very vocal" and the shift manager was not sure if she was a "negative Nancy." The shift manager said the claimant's comments were inappropriate and were bringing morale down.

On August 30, 2016, Ms. Stoughton and Ms. Bohannon met with the claimant to discuss her progress since their last meeting August 8, 2016. Ms. Stoughton asked the claimant about her computer training and the list of areas she wanted more training in and the claimant stated, "That's all fine but I do not feel the training is good here. It's very negative. I completely disagree with how Aldi runs its business and I can honestly say I know why so many people leave so fast. You can't throw employees into (sic) the wolves and expect them to know what you are talking about. You need a training session with a mentor to explain and show new employees how everything is done." Ms. Bohannon asked the claimant to tell her specifically what she was not comfortable with and the claimant replied, "Nothing specifically, just everything." Ms. Bohannon asked the claimant what she should have done differently when she trained the claimant on produce and the claimant said, "Produce was the only thing I was comfortable with." Ms. Bohannon asked her about the day a shift manager trained her on "truck" and the claimant stated, "Sarah didn't train me. She gave me a pallet and said, 'have at it.' I had to figure out grocery for myself and after I spent an hour rotating everything Megan was the one who told me I didn't need to do that. In any other company you rotate everything. I'm not holding a grudge about the pink dot procedure but that is something that needs to be addressed for future new employees. All employees have different backgrounds, you don't know what they know vs what they do not know." Ms. Stoughton said, "You are absolutely right Lourie. I agree with you that all employees have different backgrounds. That being said, because we hire so many different people, it's hard for Aldi to have a training program to cover absolutely every situation that they will encounter at the job – sometimes it just takes time. Please do not get frustrated and keep in mind you were a long term employee at your previous job. You've only been with the company for five weeks. I do not expect you to know everything about Aldi at this point." The claimant replied, "No. It can be done, because other companies are doing it. Aldi just doesn't know how to properly train its people and run its business. I'm not telling you how to do your job, but I've been in management since I was 18 and Aldi does not do it right." Ms. Stoughton asked the claimant if there was anything she would like retraining on or anything she could for her at that point and the claimant stated, "No. I am just completely miserable here and am not happy with the company at all. I do not agree with Aldi or enjoy working for them. I thought this would be a company I would be with for a long time, but I was wrong. I have a problem with the company as a whole. I've never disliked a job so much in my life. I dread coming to work every day. I am extremely unhappy here." Ms. Stoughton apologized for the claimant feeling that way and stated she would pass the feedback along. Ms. Bohannon was called away from the meeting at that time and once she left the claimant said, "How does our store manager expect us to do our job when she can't even do hers? I had to throw her garbage out for her the other day. She left an entire pallet for me to throw out." When Ms. Bohannon returned to the meeting the claimant said, "The shift management is terrible here as well. They do not delegate and we are constantly getting out late." Ms. Stoughton explained that most of the shift managers were new employees and they were still learning. The claimant responded by saying, "That's just an excuse. I'm not trying to throw either of you under the bus, but it is because they are not properly trained here. It's probably me. It's probably because I've been in management for so long I have a hard time working under people. But I am definitely not interested in management here. I have no interest in

being here for much longer.” Ms. Stoughton asked the claimant if there was anything the employer could do for her at that point and the claimant stated, “No. I’m just done. I have no interest in this company and I strongly dislike it. I am searching for other jobs and will put in my two weeks when I find one. I’m just giving you my feedback about this company.” Ms. Stoughton thanked the claimant for meeting with the employer.

After the meeting Ms. Stoughton and Ms. Bohannon discussed the claimant’s responses and Ms. Bohannon stated she did not think she could work with the claimant anymore. After considering the matter further, the employer notified the claimant her employment was terminated when she went into the office to count her drawer later that day.

### **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 § 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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 employer's decision to terminate the claimant's employment was reasonable and understandable given the claimant's expressed contempt for management and the company itself, the employer asked the claimant how her training was going since they last discussed it August 8, 2016. The claimant gave her opinion on training, other employees, management, and the store, and flatly disagreed and argued with the employer every time it tried to find common ground with her. She acknowledged that because she was previously a manager she may not be able to work for others and her behavior showed that might well be true. She did not demonstrate any tact or understanding of an employer with a new staff trying to improve the store for both customers and employees. Rather than participate as an individual with skills that could help improve the store, the claimant took the opportunity of the employer asking her how her training was going to roundly criticize everything about the store and management, to the point the store manager no longer felt she could even work with her any longer.

That said, the employer basically invited the comments by asking the claimant how her training was going. Although the administrative law judge found the way she expressed her opinions to be disrespectful and rude, she was not yelling at management and did not use profanity when speaking. Giving an opinion, when asked by the employer, even if not what the employer wants to hear, does not rise to the level of disqualifying job misconduct as that term is defined by Iowa law. Therefore, benefits must be allowed.

**DECISION:**

The September 27, 2016, reference 03, 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/pjs