

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANN M CLAYTON

Claimant

APPEAL NO: 13A-UI-14074-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL INCORPORATED

Employer

OC: 12/01/13

Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 17, 2013 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit this employment for reasons that do not qualify her to receive benefits. The claimant participated in the January 15 hearing. The employer notified the Appeals Section that the employer did not wish to participate in the hearing. During the hearing, Claimant Exhibit A was offered and admitted as evidence. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on September 9, 2013. The employer hired the claimant to work full time taking orders in customer service.

The claimant received two weeks of training. After she completed the training, she still had problems absorbing all the information she received during training. The claimant tried to do the job to the best of her ability. The claimant's supervisor was not satisfied with the claimant's job performance.

The employer put the claimant on a work performance improvement plan in late October. During a meeting on November 26, the claimant's supervisor told the claimant it was apparent the job was not for her. The employer did not have any other job to move the claimant to. The employer told the claimant that it was in her best interests to resign. The supervisor commented that it was better to resign than to be discharged. The claimant submitted her resignation notice on November 26. The employer did not allow the claimant to work until the effective date of her resignation, December 20, 2013. The claimant's last day of work was November 27, 2013.

The employer is not one of the claimant's base period employers.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The evidence establishes the employer initiated the employment separation because the claimant's work performance was not satisfactory.

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 facts indicate the employer had justifiable business reasons for ending the claimant's employment. The claimant's unsatisfactory performance as a result of her inability to do the job to the employer's satisfaction does not constitute work-connected misconduct when the claimant tried to do the job to the best of her ability. Since the claimant did not commit work-connected misconduct, she is qualified to receive benefits as of December 1, 2013.

The employer's account will not be charged during the claimant's current benefits year because the employer is not one of her base period employers.

DECISION:

The representative's December 17, 2013 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of December 1, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs