

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARALEE PETERSEN

Claimant

APPEAL 21A-UI-01144-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORTH CENTRAL IOWA ACCOUNTING, LL

Employer

OC: 09/20/20

Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Saralee Petersen, the claimant/appellant filed an appeal from the December 3, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 16, 2021. Ms. Petersen participated and testified. The employer participated through Jeremiah Schlegel.

ISSUE:

Was Ms. Petersen's separation from employment a discharge for misconduct or did she voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Petersen began working for the employer on January 1, 2020. She worked as a full-time bookkeeper. Her last day at work was August 6, 2020 when she was separated from employment.

On July 22, Ms. Petersen told Mr. Schlegel that she planned to quit at the end of August or in early September. When Mr. Schlegel bought the company from the previous owner on January 1, he implemented new systems. Ms. Petersen was stressed by the new systems because, in her view, the employer did not provide enough training on the new systems. Ms. Petersen planned to get all of her clients' work done then quit. Mr. Schlegel asked Ms. Petersen for a resignation letter in writing with a specific end date. Ms. Petersen did not provide a specific end date because she did not know when she would get all of her clients' work done.

On August 6, Mr. Schlegel terminated Ms. Petersen's employment. The reasons for the termination were that Ms. Petersen was not transitioning work from the old systems to the new system quickly enough and other employees knowing that Ms. Petersen would be quitting at some future, unspecified date, was causing moral issues.

As of December 1, Ms. Petersen has limited her availability for work because she is receiving Social Security benefits..

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Petersen's separation from the employment was for no disqualifying reason.

Iowa Code section 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.

871 IAC 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 Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

871 IAC 24.23(22) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(22) Where a claimant does not want to earn enough wages during the year to adversely affect receipt of federal old-age benefits (social security).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

In this case, Ms. Petersen never gave the employer a date certain for when she would quit. She wanted to get her clients' work done and prepare herself for a new job so she did not know when she would quit. The employer was frustrated by this and by the slowness of Ms. Petersen transferring work from the old system to the new system. The employer terminated Ms. Petersen's employment on August 6. The employer has not established misconduct on the part of Ms. Petersen. Therefore, the employer has not meet its burden. Benefits are allowed.

Since Ms. Petersen has limited her availability as of December 1, 2020 due to her receiving Social Security benefits, she is disqualified from received benefits effective December 1, 2020.

DECISION:

The December 3, 2020, (reference 01) unemployment insurance decision is reserved. Ms. Petersen was discharged from employment for no disqualifying reason. Benefits are allowed from September 20, 2020 through November 30, 2020, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Daniel Zeno
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February 26, 2021
Decision Dated and Mailed

dz/mh