

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**RAQUEL INIGUEZ
PO BOX 192
WEST LIBERTY IA 52776**

**SEATON CORPORATION
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

**Appeal Number: 04A-UI-11078-CT
OC: 09/19/04 R: 03
Claimant: Respondent (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Seaton Corporation filed an appeal from a representative's decision dated October 8, 2004, reference 02, which held that no disqualification would be imposed regarding Raquel Iniguez' separation from employment. After due notice was issued, a hearing was held by telephone on November 9, 2004. Ms. Iniguez participated personally. The employer participated by Susan Murphy, Account Supervisor. Exhibits One through Eight were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Iniguez was employed by Seaton Corporation from November 12, 2001 until September 21, 2004 as a full-time production worker. She was discharged because of accidents at work.

On June 19, 2003, Ms. Iniguez was reaching under a hopper to retrieve bottles from the floor. As she was getting up, she struck the top of her head on the end of the hopper. On December 31, 2003, Ms. Iniguez fell as she was going down a set of stairs. She landed on her buttocks and suffered a minor strain. She had not been using the handrails as she proceeded down the stairs. On January 14, 2004, she was given a written warning for performing unsafe acts.

The final incident which triggered the discharge occurred on September 14, 2004. Ms. Iniguez was standing between a hopper and a pallet containing a clamp of caps as she was emptying a box of shampoo bottle caps into the hopper. When the clamp of caps moved forward, the pallet fell forward and she was trapped between the hopper and clamp of caps. The employer surmised that someone must have hit a button to move the clamp forward. There is a sign posted in the area which advises employees not to stand in the area when bottles are moving forward. The bottles were not moving forward when Ms. Iniguez began emptying caps into the hopper. As a result of this final incident, Ms. Iniguez was discharged on September 21, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Iniguez was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Iniguez was discharged for having too many accidents at work. The administrative law judge concludes that she was not deliberately or intentionally failing to abide by the employer's standards on any of the occasions which caused her discharge. She struck her head in June of 2003 because she misjudged the clearance from the hopper when she went to stand up. It is true that Ms. Iniguez was not using the handrails when she fell on the stairs in December of 2003. However, people routinely fail to use handrails provided on stairs. The failure to use handrails does not evince an intent to disregard safety. Moreover, the administrative law judge cannot conclude that Ms. Iniguez would not have fallen if she had been using the handrails.

The administrative law judge cannot conclude that Ms. Iniguez was at fault for the accident of September 14, 2004. She did not disregard the posted warning as the bottles were not moving when she was standing by the hopper. The bottles began moving after she was already by the hopper. The accident report indicates that the pallet on which the clamp of caps was situated was in bad shape. The administrative law judge cannot determine the extent to which the condition of the pallet played a part in the accident, if any. The employer's evidence failed to prove conclusively that Ms. Iniguez was disregarding known safety standards when the accident occurred.

After considering all of the evidence, the administrative law judge concludes that the employer has failed to establish disqualifying misconduct. While the employer may have had good cause to discharge, conduct which might warrant a discharge from employment will not necessarily

sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated October 8, 2004, reference 02, is hereby affirmed. Ms. Iniguez was discharged by Seaton Corporation but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/tjc