

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BECKY M HAMM

Claimant

APPEAL NO: 14A-UI-12326-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APAC CUSTOMER SERVICES INC

Employer

OC: 10/26/14

Claimant: Respondent (1)

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's November 19, 2014 (reference 01) determination that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant participated at the December 17 hearing. Turkessa Newsone, a human resource generalist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working as a full-time customer service representative in December 2013. The claimant took incoming calls from customers who had called to cancel a service. The claimant's job was to convince callers to keep services they had. The claimant and other customer service representatives had to code the disposition of the call. If the customer did not cancel services, the call was considered a save and a potential bonus to the representative.

Between May and October 2014 the claimant understood the employer made numerous changes. As a result of all the changes, she often asked a lead employee or a quality assurance employee questions about how to code the disposition of a call. The claimant tried to accurately record the disposition of a call.

The employer conducted a floor audit of calls received between May and October 2014. As a result of the audit, the employer contacted the claimant on October 30 and told her she was suspended while the employer investigated. The audit revealed potential fraud by incorrectly coding the disposition of calls. Other customer service representatives were also suspended for the same problem.

On an average the claimant handled 100 to 150 calls a day. Between May and October the employer identified 24 calls that the claimant incorrectly coded which may have resulted in a bonus for her. Even though quality assurance employees reviewed the recordings of these calls, when the claimant asked if she could listen to these calls she was told no. The claimant did not intentionally code the disposition of calls incorrectly. As a result of changes implemented by the employer, the claimant coded the disposition of calls to the best of her ability and may have made some mistakes.

The employer discharged the claimant on November 7, 2014 for failing to code disposition of calls correctly. Even though the claimant's job was not in jeopardy before the floor audit, the employer considers one incorrectly coded disposition as a serious issue and could discharge her for one improperly coded disposition.

The claimant established a claim for benefits during the week of October 26, 2014. She has filed claims and received benefits since the week ending November 1, 2014. The claimant participated at the fact-finding interview, but no one on the employer's behalf participated.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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 employer discharged the claimant for business reasons, but did not establish that she intentionally coded disposition of calls incorrectly. The facts indicate the employer made numerous changes between May and October and the claimant asked a lead employee and a quality assurance employee how to code a call as a result of the changes the employer made. The evidence does not establish that the claimant committed work-connected misconduct. As of October 26, 2014 the claimant is qualified to receive benefits.

DECISION:

The representative's November 19, 2014 (reference 01) determination is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of October 26, 2014 the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

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