

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANDRA L TAYLOR
Claimant

APPEAL NO. 07A-UI-04284-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BROADLAWNS MEDICAL CENTER
Employer

**OC: 04/01/07 R: 02
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Sandra L. Taylor (claimant) appealed a representative's April 20, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Broadlawns Medical Center (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 14, 2007. The claimant participated in the hearing. Rick Barrett and Thien Tran, an environmental supervisor, appeared on the employer's behalf. Cooke Famaro observed the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked 3.5 years for the employer as a full-time environmental technician or as a housekeeper. The claimant had continuing problems with another employee. The claimant reported the problems, but the employer did nothing to resolve the problems between the two. Even though the claimant asked for a transfer, she was not transferred.

In the claimant's annual evaluation in mid-December 2006 the employer informed the claimant she did not meet the employer's standard about respecting her coworkers. The claimant had a pattern of failing to get along with her fellow employees, especially one employee. Throughout the course of her employment, the employer noticed that the claimant argued with co-workers.

On March 16, 2007, the claimant and the co-worker she had repeated problems with had a confrontation. On March 29, the employer gave the claimant a final written warning for failing to talk respectfully to a co-worker on March 16. The co-worker also received a written counseling for this incident. The employer told the claimant she needed to try harder to get along with her co-workers.

On April 4, 2007, the claimant put some laundry in the washer in the morning. Later that day when she saw an employee, who did not have any problems getting along with the claimant, the claimant asked who was scheduled to do laundry that day because laundry was not being done. The co-worker apparently considered the claimant's questions as an accusation that the co-worker was not doing her job. The co-worker complained that the claimant yelled and screamed at her and the claimant engaged in a verbal argument with the employee. Another employee saw the two women and knew something was going on but did not report what was said between the two women. A third employee reported that the claimant was screaming and yelling at a co-worker, but this employee did not report what was said during the screaming and yelling.

Since the claimant had a history of problems working cooperatively with co-workers, the employer discharged the claimant. The employer discharged her because the claimant repeatedly failed to work cooperatively or get along with her co-workers.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The facts establish the employer had compelling business reasons for discharging the claimant. Based on the employer's investigation, the employer concluded the claimant again disrupted the workplace by engaging in an argument with a co-worker on April 4, 2007. Since the claimant did not usually have any problems with the April 4 co-worker and the claimant denied yelling or screaming at the co-worker, the claimant's testimony about what happened on April 4 must be given more weight than the employer's reliance on unsupported hearsay information from employees who did not testify at the hearing. If the April 4 employee did not fully understand English she could, as the claimant suggested, have misunderstood the claimant. It is difficult to understand why an employee who reported the claimant was yelling and screaming at a co-worker did not report what was said. The employee who complained about the claimant on April 4 was obviously upset with the claimant, but the evidence does not indicate what specifically the claimant said that upset with the claimant. Under the facts of this case, the evidence does not establish that the claimant committed work-connected misconduct. As of April 1, 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's April 20, 2007 decision (reference 01) is reversed. The employer discharged the claimant for business reasons, but the facts do not establish that the claimant committed work-committed misconduct. As of April 1, 2007, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css