

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADELA CORONA
Claimant

APPEAL NO. 09A-UI-09410-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICE INC
Employer

OC: 05/10/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 24, 2009, reference 02, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on July 17, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Mary Porretta participated in the hearing on behalf of the employer with a witness, Lori Smith.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a staffing supervisor for the employer from July 16, 2007, to May 15, 2009. The claimant's job duties included making sure every employee hired had proper work authorization. She had hired several employees who did not have proper work authorization.

In May 2009, the employer began investigating the claimant's conduct after it was reported that the claimant had knowingly hired alien workers who did not have proper work authorization. After taking statements from several employees, management determined that the claimant had in fact employed persons who did not have proper work authorization and knew they were not authorized. The employer also discovered that the claimant had used the employer's computers and email system to send an email to a detective with the Des Moines Police Department after her domestic partner was arrested and held for deportation. The claimant was discharged due to hiring a person who did not have proper work authorization on May 15, 2009.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant's testimony that she never knowingly hired someone without proper work authorization is not credible. Her violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated June 24, 2009, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css