

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA VILLAGRANA
Claimant

APPEAL NO. 10A-UI-01492-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

**Original Claim: 07/26/09
Claimant: Appellant (2/R)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's January 28, 2010 decision (reference 03) that disqualified her from receiving benefits, and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. A telephone hearing was held on March 11, 2010. The claimant participated in the hearing with her attorney, John Westensee. Monica Dyar, a human resource supervisor, appeared on the employer's behalf. Ike Rocha interpreted 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 started working for the employer on August 25, 2008. The claimant worked as a full-time molder. The employer's policy that the claimant received in Spanish informed her that any false statement on any employment application, record, or document could result in her termination.

The employer did not have the claimant complete a pre-employment physical. The claimant did not answer questions about her health until January 23, 2009. The claimant did not indicate on the January 23, 2009 form or questionnaire that she had a work-related injury when she worked for a previous employer.

The claimant reported a work-related injury to her hand on December 18, 2009. On December 29, 2009, when the employer asked the claimant questions about her hand injury, the employer also asked the claimant if she ever had a work injury when she worked for any other employer. As a result of the questions the employer asked the claimant, she told the employer she had a waist injury that happened at work when she had worked for an electronics company. This injury happened more than ten years ago. The employer retrieved the claimant's January 23, 2009 physical form and noted the claimant had not previously reported

the waist injury. When the employer asked her why she had not told the employer about the waist before, the claimant indicated she had not understood the question.

The employer discharged the claimant on January 8, 2010 for providing false information on her January 23, 2009 physical questionnaire.

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).

During the hearing, it was apparent that the claimant did not understand some questions that referred to a work-related injury. When asked if she been hurt at another job, she explained that she had a waist injury 10 or 11 years ago. The fact an answer to a question on a form completed on January 23, 2009, indicated the claimant did not have a work-related injury from another employer does not establish that she intentionally falsified this information. The claimant's assertion that she did not understand the question is supported by her testimony during the hearing. Also, the claimant indicated that she had not completed the answers on the January 23 form. A preponderance of the evidence does not establish that the claimant intentionally provided false information on a January 23, 2009 form.

While the employer established business reasons for discharging the claimant because a January 23, 2009 medical form did not contain accurate information, the claimant did not commit work-connected misconduct on January 23, 2009. Therefore, as of January 3, 2010, she is qualified to receive benefits.

Since the claimant had a work-related injury, an issue of whether she is able to and available for work must be remanded to the Claims Section to investigate and determine.

DECISION:

The representative's January 28, 2010 decision (reference 03) is reversed. The employer discharged the claimant for reasons that do not amount to work-connected misconduct. As of January 3, 2010, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account may be charged. Since the claimant's hand was injured, an issue of whether the claimant is able to and available for work as of January 3, 2010, is Remanded to the Claims Section to investigate and determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw