

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PEGGY A ROBISON**  
Claimant

**APPEAL NO: 13A-UI-13967-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PELLA CORPORATION**  
Employer

**OC: 11/24/13**

**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Pella Corporation (employer) appealed a representative's December 13, 2013 decision (reference 01) that concluded Peggy A. Robison (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 14, 2014. The claimant participated in the hearing. Diane Carpenter appeared on the employer's behalf and presented testimony from one other witness, Brian Moore. 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:**

Was the claimant discharged for work-connected misconduct?

**OUTCOME:**

Affirmed. Benefits allowed.

**FINDINGS OF FACT:**

The claimant started working for the employer on July 19, 1999. She worked full time as a laborer on the second shift in the employer's wood stock department of the employer's Shenandoah, Iowa window and door manufacturing facility. Her last day of work was November 14, 2013. The employer suspended her that day and discharged her on November 18, 2013. The reason asserted for the discharge was dishonesty in an investigation to avoid discipline after two warnings for attendance.

When the claimant came in for her shift on November 14 she was questioned about a taillight that had been found to be broken sometime during the third shift, after the claimant had used the forklift on November 13. The claimant did not think she was responsible for the broken taillight; to begin with, she did not even know which taillight it was that had been broken. Several persons with the employer spoke to her several times. By the last time they spoke to the claimant, the claimant acknowledged that there had been some occasion where she had

bumped into a wall while backing; however, the claimant denied that this could have resulted in the breakage, and specifically indicated that there was no broken taillight debris in that area or elsewhere on the floor when she was done. In the past the claimant had on occasion broken or cracked a taillight; on those occasions she reported the incidents to maintenance, and the taillights were repaired with no disciplinary action being taken against the claimant. However, in this instance the employer concluded that the claimant had been dishonest in the investigation, and therefore determined to discharge her.

## **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). The question is not whether the employer was right to terminate the claimant's employment, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. IDJS*, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what is misconduct that warrants denial of unemployment insurance benefits are two separate matters. *Pierce v. IDJS*, 425 N.W.2d 679 (Iowa App. 1988).

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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 to be deemed misconduct within the meaning of the statute. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The reason cited by the employer for discharging the claimant is the conclusion that she had been dishonest during the investigation of the broken taillight to avoid discipline. It appears less that the claimant was dishonest as compared to that she was questioned to the point of providing more details about her operation on the forklift which the employer interpreted as subsequently identifying when the damage had occurred, when the claimant still did not believe the damage could have occurred at that point. It is significant that the claimant had no apparent motivation to conceal any damage to the taillight that she might have caused, as she had revealed damage in the past which had not resulted in discipline. The employer has not met its burden to show disqualifying misconduct. *Cosper*, supra. Based upon the evidence provided, the claimant's actions were not misconduct within the meaning of the statute, and the claimant is not disqualified from benefits.

**DECISION:**

The representative's December 13, 2013 decision (reference 01) is affirmed. The employer did discharge the claimant but not for disqualifying reasons. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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