

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BELINDA Y MILLER**  
Claimant

**APPEAL NO. 11A-UI-08031-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HCM INC**  
Employer

**OC: 05/15/11  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Belinda Miller filed a timely appeal from a representative's decision dated June 13, 2011, reference 01, which denied unemployment insurance benefits. After due notice was issued, a telephone hearing was held on July 14, 2011. The claimant participated personally. Although duly notified, the employer did not participate.

**ISSUE:**

At issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Belinda Miller was employed by HCM Inc., a care facility, from April 20, 2010, until May 1, 2011, when she was discharged from employment. Ms. Miller worked as a part-time food aid and was paid by the hour. Her immediate supervisor was Linda (last name unknown).

Ms. Miller was discharged from her employment with HCM, Inc. after she was unable to report for work on or about April 29, 2011, due to unforeseen transportation issues with her personal vehicle. Ms. Miller called in prior to the beginning of her work shift to inform the employer that she would be unable to work that day. Because the claimant had been unable to report for work as scheduled, she was discharged from employment.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does not.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such 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. On the other hand 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.

The employer has the burden of proof in this matter. See Iowa Code section 96.6-2. Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. Conduct warranting the discharge of an employee may not necessarily be serious enough to warrant the denial of unemployment insurance benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa App. 1992).

Allegations of misconduct without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. See 871 IAC 24.32(4).

In this case, the claimant testified that she had notified her immediate supervisor of her inability to report for work on or about April 29, 2011. The claimant provided notification prior to the beginning of the work shift and informed the employer that she was unable to report for work that day due to unexpected transportation issues with her personal vehicle. The claimant had no other reasonable way to get to work that day.

Although the claimant had provided notification to the employer that she would be absent and the reason for it, she was nevertheless discharged from employment on May 1, 2011. While the decision to terminate Ms. Miller may have been a sound decision from a management

viewpoint, the evidence in the record does not establish misconduct sufficient to warrant the denial of unemployment insurance benefits. Benefits are allowed.

**DECISION:**

The representative's decision dated June 13, 2011, reference 01, is reversed. The claimant was discharged for no disqualifying reason. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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