

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORI L CHURCH
Claimant

APPEAL NO: 14A-UI-02543-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA LLC
Employer

OC: 02/09/14
Claimant: Respondent (1)

Section 96.5-2-a - Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The employer appealed a department decision dated March 3, 2014, reference 01, that held the claimant was not discharged for misconduct on February 14, 2014, and benefits are allowed. A telephone hearing was held on March 31, 2014. The claimant, and Attorney Tyler Patrick, participated. Tahler Johnston, HR Generalist and Chris Orr, Molding Manager, participated for the employer.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant was hired on December 21, 2009, and last worked for the employer as a full-time lay-up team leader on February 13, 2014. She received the employer policies in an employee handbook that included best practices.

The employer issued claimant a performance improvement plan on March 20, 2011. The employer issued claimant a coaching for work production on November 13, 2013. The employer issued claimant and other team leaders a job performance verbal warning for rate of production.

The employer instituted a new best practice plan about February 3. Claimant had only worked about two occasions under this new plan. On February 13, 2014 manager Orr observed claimant was not working in an area where he believed she was required inside a mold with other associates. Orr found claimant in the HP staging area. He requested claimant to leave that area. She was working the HP area because there were not enough people to do the bagging.

Claimant approached Orr in a noisy work environment and tried to explain what she was doing. She became frustrated in trying to explain what had she had been doing and it was too loud to

communicate and hear him. There were a group of people talking that also made it hard for claimant to hear. She dropped her company radio and left the work area. She did not hear Orr requesting to come back. She went to use the restroom and returned to the production floor where Orr yelled at her to gain her attention.

Claimant went to an office area where she was questioned. She explained she did not hear Orr's requests to come back. The employer discharged claimant for violation of a best work practice, lack of professionalism and insubordination.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes the employer has failed to establish that the claimant was discharged for misconduct in connection with employment on February 13, 2014.

The employer had not disciplined claimant for the issues it relies upon for discharge. Given the brief period it recently began a new best practice about ten days prior to discharge, there was no deliberate claimant violation for working in another area.

Claimant did not deliberately refuse a supervisor instruction to come back when she left the production floor, because the work environment was so noisy she could not hear. This is the

same explanation claimant gave when confronted later. Job disqualifying misconduct is not established.

DECISION:

The department decision dated March 3, 2014, reference 01, is affirmed. The claimant was not discharged for misconduct on February 14, 2014. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css