

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEANNE WOODROFFE**  
Claimant

**APPEAL NO: 11A-UI-09840-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TECHNISOURCE INC**  
Employer

**OC: 04-03-11**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 18, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 23, 2011. The claimant participated in the hearing. Steve Chatt, Account Executive, was scheduled to participate in the hearing on behalf of the employer, but was not available when called for the hearing. This hearing was originally scheduled on August 19, 2011, but was moved, with the consent of the parties, to August 23, 2011, at 3:00 p.m. due to a scheduling conflict of the administrative law judge.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time project manager IV for Technisource assigned to Wells Fargo from October 7, 2010 to January 25, 2011. The claimant was experiencing a problem with Wells Fargo full-time employee, Carol, who was her peer, because their working styles were very different. Carol monitored the claimant's work and if the claimant asked her a question she took work away from the claimant. The claimant had unexpected surgery in January 2011 and was allowed to work at home but Carol took more and more work away from her. The claimant spoke to the employer about the issue but it did not offer any solutions to the problems she was experiencing. She asked the employer for permission to speak to the Wells Fargo manager and did so three times and he expressed that he knew the person that contracted for her job would probably experience difficulties with Carol and stated he was working with Carol on her ability to work with others but did not provide further guidance. After Carol took more work away from the claimant while she was working at home in January 2011 she was notified her employment was being terminated because Wells Fargo did not want to deal with the issues between the claimant and its full-time employee, Carol.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

Iowa Code § 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 proving disqualifying misconduct. 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 substantial and 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). The claimant never received any warnings about her work performance or the fact that she and Carol had different working styles. Carol made the claimant's work environment very difficult but she did not quit her job. Instead, the client asked that the claimant be removed from her contract position because it did not want to navigate or intervene in the claimant's working relationship with Carol and did not want to work with the situation any longer. Under these circumstances, the administrative law judge concludes there is no evidence of misconduct on the part of the claimant and consequently disqualifying job misconduct has not been established. Therefore, benefits are allowed.

**DECISION:**

The July 18, 2011, reference 01, decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs