

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUE SORENSON

Claimant

APPEAL NO: 12A-UI-04760-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SAC CITY CHAMBER MAIN STREET

Employer

OC: 04/01/12

Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's April 20, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account potentially subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant participated in the hearing. Carol Hansen, Jim Green, and Bobby Wells appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

Wells, a board member, screened and interviewed the claimant to become the employer's full-time director. On the claimant's resume, she indicated she had experience with Microsoft, Office, Word and Excel. The claimant used Word to create her resume. In her previous job, the claimant frequently sent emails. The claimant had used Excel for her personal finances, but not for a business's finances. The claimant told the employer she had never used the software program Publisher. As the executive director, the claimant was required to write letters to businesses, create and send out a newsletter, and do the employer's finances.

When the claimant started her employment, Board members who tried to train the claimant did not believe she had the necessary computer skills the employer required. The employer tried to work with the claimant to see how quickly she could pick up the necessary computer skills. The claimant had problems learning how to use the Publisher program. In an attempt to learn this program, she took a free class at the library. The claimant found this class helpful. The claimant still needed more time working with this software program.

The claimant had problems finding documents the previous director put on the computer. The claimant did not know how the previous director categorized documents and it took some time to find documents.

The claimant understood her main problem was working with the Publisher software. She worked to the best of her ability and still believed she was still in the training phase. On March 28, 2012, the employer gave the claimant the choice of resigning or the employer discharging her. The employer decided to end the claimant's employment because she did not exhibit the necessary computer skills for the job.

The claimant established a claim for benefits during the week of April 1, 2012. The employer is not one of the claimant's base period employers.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a. When an employer tells an employee to resign and if she does, she will be discharged; the employer initiated the employment separation and discharged the employee. Even if a claimant does not resign, the employment still ends because the employer discharges her. In this case, the employer discharged the claimant.

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).

When the claimant started, she did not have the necessary computer skills needed for the director's job. Even though the employer tried to train the claimant and the claimant tried to acquire the necessary computer skills that the job required, the claimant did not perform her job satisfactorily. She simply did not have the necessary computer skills required to do the job. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of April 1, 2012, the claimant is qualified to receive benefits.

Since the employer is not one of the claimant's base period employers, the employer's account will not be charged during the claimant's current benefit year.

DECISION:

The representative's April 20, 2012, determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of April 1, 2012, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw