

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERTA M SCHROEDER**  
Claimant

**APPEAL NO: 13A-UI-10106-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOOD SAMARITAN SOCIETY INC**  
Employer

**OC: 08/04/13**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's August 28, 2013 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing with her attorney, Nathaniel Boulton. Jessa Ketelson and Beth Callahan appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working in July 1998. She worked full time as the dietary director. The employer did not address any problems with the claimant's work until a year ago. The employer gave the claimant a written counseling on June 6, 2012, a written warning on June 14, 2012, a final warning on May 9, 2013, and Performance Improvement Plans on May 7, June 7 and July 9, 2013. There were numerous issues the employer addressed with the claimant so the claimant's work performance would meet state and federal regulations as well as the employer's policies and procedures.

The employer saw improvement with the claimant's performance. Unfortunately once the claimant addressed an issue and corrected it, the employer discovered new issues. The claimant tried to correct issues the employer pointed out and performed her work to the best of her ability.

When the employer did not see consistent audits and concluded the claimant did not possess the necessary leadership skills to discipline her staff, the employer discharged the claimant on August 8, 2013. The employer discharged the claimant for failing to follow the employer's procedures and rules.

## REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.
- 4.

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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established justifiable business reasons for discharging the claimant. The evidence indicates the claimant listened to the employer's concerns and tried to do her job to meet the employer's standards. The fact the claimant tried to do her work satisfactorily is evidenced by the fact the employer would notice a problem resolved one week, but then noticed a new problem or issue the claimant needed to address. Even though the employer worked with the claimant on a weekly basis since May, the claimant was unable to perform her job to the employer's standards or satisfaction. The claimant did not commit work-connected misconduct. As of August 4, 2013, the claimant is qualified to receive benefits.

## DECISION:

The representative's August 28, 2013 determination (reference 01) is reversed. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of August 4, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/pjs