

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TANYA S VANDEPOL**  
Claimant

**APPEAL NO: 13A-UI-05755-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JACOBSON STAFFING COMPANY LC**  
Employer

**OC: 07/15/12**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's May 7, 2013 determination (reference 05) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had been discharged for nondisqualifying reasons. The claimant participated in the hearing. Ruth Castor 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 as of April 7, 2013.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant registered to work for the employer, a temp-to-hire agency. The employer assigned the claimant to work at AYM on November 27, 2012. On April 3, 2013, AYM's plant manager told the employer to remove the claimant from the assignment. AYM did not want the claimant working at its plant after concluding the claimant was responsible for breaking two machines and causing \$5,000.00 or more damage to the machines.

The employer did not know about the first machine the claimant broke at AYM until early April. The first time, the claimant was careless and put a part into a machine incorrectly. The claimant did not realize she had put the part into the machine incorrectly or crooked. After the claimant damaged a machine in January, AYM told her that this was her freebie. After the January incident, the claimant double-checked parts she put into a machine so she would not damage another machine.

In early April 2013 the claimant loaded a part into a machine and double checked the part to make sure she had correctly positioned the part before she clamped the part and started the machine. As soon as the claimant heard a crashing sound, she immediately stopped the machine. The same day this incident occurred AYM ended the claimant's assignment. The claimant immediately asked the employer for another assignment. The employer did not have another assignment for the claimant then.

## 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.

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).

AYM asked the employer to end the claimant's assignment at its facility because the claimant damaged machinery two times. After the January incident, the claimant took precautions to make sure parts she put into a machine were correctly positioned. Even though the claimant put a part into a machine in early April that damaged the machine, the evidence does not establish that she was careless or negligent to the extent that she committed work-connected misconduct.

A claimant, who is a temporary employee of a temporary employment firm, may be disqualified from receiving unemployment insurance benefits if she does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise in writing about the three-day notification rule and that a claimant may be disqualified from receiving unemployment insurance benefits if she fails to timely notify the employer a job has been completed. Iowa Code § 96.5(1)j. The claimant immediately requested another assignment but, the employer did not have any assignment for her.

As of April 7, when the claimant reopened her claim, she is qualified to receive benefits. The employer is not one of the claimant's base period employers. During the claimant's benefit year, July 15, 2012 through July 13, 2013, the employer's account will not be charged.

**DECISION:**

The representative's May 7, 2013 determination (reference 05) is affirmed. The employer ended the claimant's assignment at AYM for business reasons but, the claimant did not commit work-connected misconduct. As of April 7, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs