

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ELIZABETH FORTNER
Claimant

NORDSTROM INC
Employer

APPEAL 15A-UI-06673-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/17/15
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 1, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination the claimant violated a known company rule. The parties were properly notified about the hearing. A telephone hearing was held on July 8, 2015. Claimant Elizabeth Fortner participated on her own behalf. Employer Nordstrom, Inc. did not register for or participate in the hearing.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as a packing processor beginning April 10, 2013, and was separated from employment on May 19, 2015, when she was terminated. On May 18, 2015, an employee informed another employee, Kelsey Muldoon, that the claimant had threatened Muldoon. The claimant approached Muldoon to discuss the situation, but she became upset. The claimant tried to speak with her supervisor Justin Bird, but he was not available. Management became aware of the situation and Department Manager Ron Westbrook invited the claimant to a meeting with him and Bird to discuss the allegations. The claimant denied the allegations and observed that as she was six months pregnant they observed, she was incapable of physical violence. She was placed on a suspension while the matter was investigated. The following day, Westbrook and Bird contacted the claimant to notify her that she was being terminated. The claimant reiterated she did not engage in the conduct of which she was accused; however, she was still terminated.

REASONING AND CONCLUSIONS OF LAW:

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

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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job-related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. The claimant was told she was terminated for violating the company policy. She presented credible evidence that she did not engage in the conduct of which she was accused. The employer did not provide evidence or testimony to rebut the claimant's evidence. It has not met its burden to show the claimant was discharged for disqualifying job-related misconduct. Benefits are allowed.

DECISION:

The June 1, 2015, (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/mak