

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CINDEL L DIEPHUIS**  
Claimant

**ALANIZ LLC**  
Employer

**APPEAL NO: 10A-UI-15385-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/10/10  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge  
Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated November 4, 2010, reference 01, that held she was discharged for misconduct on October 13, 2010, and benefits are denied. A telephone hearing was held on December 20, 2010. The claimant, and her witness, Brian Hester, former employee, participated. Mike Owens, HR/Safety Manager, participated for the employer.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began employment on April 19, 2009, and last worked as a full-time machine operator on October 13, 2010. The claimant left work early on October 11 with notice to her supervisor. The claimant called in to report she would miss work on October 12 due to illness. When the claimant reported to work on October 13, her supervisor informed her she was terminated, took her badge, and walked her out of the plant facility.

The employer protested claimant's claim as a voluntary quit for walking off the job on October 11. Claimant denies she made any statement to her supervisor she was quitting and she had permission to clock-out and leave on October 11.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The administrative law judge concludes the employer has failed to establish claimant was discharged for misconduct in connection with employment on October 13, 2010, for leaving work without permission on October 11.

The employer failed to offer claimant's supervisor as a witness in this hearing to refute her testimony she did not quit employment on October 11. The employer offered no written document that claimant quit employment. Claimant's acts of calling in to report an absence on October 12, and reporting for work on October 13 are not consistent with a person who quit employment. Since the employer considers claimant's employment separation is a quit, job disqualifying misconduct is not established.

**DECISION:**

The department decision dated November 4, 2010, reference 01, is reversed. The claimant did not voluntarily quit and she was not discharged for misconduct on October 13, 2010. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs