

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAT T NGUYEN**

Claimant

**APPEAL NO. 09A-UI-03889-C**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMPETITIVE EDGE INC**

Employer

**Original Claim: 02/08/09**

**Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Dat Nguyen filed an appeal from a representative's decision dated March 3, 2009, reference 01, which denied benefits based on her separation from Competitive Edge, Inc. After due notice was issued, a hearing was held on April 14, 2009, in Des Moines, Iowa. Ms. Nguyen participated personally. The employer participated by Michael Neary, Vice President of Operations, and Bob Rees, Production Manager. Lena Hoang participated as the interpreter.

**ISSUE:**

At issue in this matter is whether Ms. Nguyen was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Nguyen was employed by Competitive Edge, Inc. from September 19, 2005 until January 30, 2009. She worked full time as a production laborer. She was discharged as a result of two arguments with coworkers.

On December 24, 2008, several women on the production floor were arguing over boxes used to package materials. Ms. Nguyen was among the group and was warned that any further episodes or arguing would result in further discipline. The decision to discharge was based on the fact that there was another argument about boxes on January 30. Ms. Nguyen had not been disciplined for any matters prior to December of 2008.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). In order to impose a disqualification from benefits, the misconduct must be substantial. Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

Ms. Nguyen was discharged after two episodes of arguing with coworkers over boxes. It is unreasonable to expect employees to be docile and well-mannered at all times.

Although Ms. Nguyen's conduct on December 14 and January 30 may have been inappropriate, it was not so substantial as to constitute a willful and wanton disregard of the employer's interests or standards. Consideration has been given to the fact that she had not been disciplined for any matters before December of 2008. The administrative law judge is inclined to view her conduct as two isolated instances of poor judgment. While the employer may have had good cause to discharge Ms. Nguyen, conduct that might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. See Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

**DECISION:**

The representative's decision dated March 3, 2009, reference 01, is hereby reversed. Ms. Nguyen was discharged, but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw