

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KIMBERLY A SCOTT
Claimant

APPEAL NO. 14A-UI-11319-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEST BUY STORES LP
Employer

**OC: 10/05/14
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 22, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on November 20, 2014. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Marcy Schneider participated in the hearing on behalf of the employer with a witness, Jason Spore. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked part time for the employer as a customer service representative from October 4, 2014 to September 18, 2014. The claimant was informed and understood that under the employer's work rules, falsification of time records was grounds for discipline.

On August 23, 2014 the claimant worked a double shift from 9:55 a.m. to 9:40 p.m. She was required to punch out for her lunch break, but she forgot to punch out. Normally, she worked a part-time shift where she was not required to punch out for her break.

The employer discovered the fact that the claimant did not punch out for her break; the claimant was questioned about this on September 11. She explained that she forgot to punch out and normally did not have to when she worked a part-time shift.

The employer discharged the claimant on September 18, 2014 for failing to punch out for her unpaid lunch break. There was no other reason for her discharge.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Iowa Code § 96.6-2; Cosper v. Iowa Department of Job Service, 321 N.W.2d 6, 11 (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 substantial and 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).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case. At most, the evidence shows a one-time instance of negligence that does not equal willful misconduct in culpability.

DECISION:

The unemployment insurance decision dated October 22, 2014, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

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