

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHANIE L SMITH**  
Claimant

**APPEAL NO. 08A-UI-02709-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PRAIRIE MEADOWS RACETRACK  
& CASINO INC**  
Employer

**OC: 02/10/08 R: 02  
Claimant: Appellant (2)**

Section 96.5-2 - Discharge

**STATEMENT OF THE CASE:**

Stephanie L. Smith (claimant) appealed a representative's March 10, 2008 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Prairie Meadows Racetrack & Casino, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 2, 2008. The claimant participated in the hearing with her attorney, Robert Nading. The employer responded to the hearing notice, but the employer's witness was not available for the hearing. Although a message was left for the employer's witness to contact the Appeals Section, the employer did not contact the Appeals Section. No one participated on the employer's behalf. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in March 2005. The claimant worked as a full-time table games dealer. The claimant has back problems and standing eight hours a day bothered the claimant's back. The claimant went to her doctor in November 2007. As a result of continued back problems, the claimant went on a leave of absence under the Family Medical Leave Act. The last day the claimant actually worked was November 27, 2007.

The claimant's physician continued treating the claimant for back problems in December. On December 23, 2007, the claimant received the employer's December 21, 2007 letter indicating the claimant had to provide the employer with medical information or she would be discharged.

On December 26, the claimant made arrangements with her doctor's office to fax her medical information to the employer on December 27.

On December 28, the claimant talked to a human resource representative and was told the employer had not received anything from her doctor. After the claimant verified with her doctor the requested information had been faxed to the employer the day before, the claimant again contacted the employer. The human resource representative then acknowledged that the employer had in fact received the medical information the claimant's doctor had faxed. However, the information faxed was not sufficient and the claimant needed to provide documentation that her doctor had treated her on certain dates.

On December 30, 2007, the claimant received a letter dated December 28 from the employer. This letter informed the claimant she was discharged because she had not provided the requested medical information to the employer. The claimant again called and talked to the human resource department. The human resource manager then indicated that if the claimant provided additional documentation that answered the employer's questions, the employer would consider rehiring the claimant. The claimant submitted more medical documentation in January, but the claimant understood the employer was still not satisfied with the documentation her physician provided.

When the claimant's physician indicated she could work at a job that combined sitting and standing, the claimant asked the employer to accommodate her. The employer declined to make this accommodation. The claimant understood the employer terminated her employment as of December 28, 2007.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. Based on the facts presented during the hearing, the claimant had no intention of quitting her employment. Instead, the employer initiated the employment separation. The employer discharged the claimant as of December 28, by asserting the claimant failed to provide the employer with requested medical documentation.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant provided medical documentation to the employer in a timely manner. If the employer was not satisfied with the documentation, the employer should have told the claimant the specific documents the employer needed for the claimant's leave of absence. The employer may have had business reasons for discharging the claimant. The facts do not, however, establish that the claimant committed a current act of work-connected misconduct. The claimant asked her doctor to send the employer medical information concerning the claimant's back and the claimant's doctor had not released her to return to a standing job as of December 28, 2007. Since the employer discharged the claimant for nondisqualifying reasons, the claimant is qualified to receive benefits as of February 10, 2008, provided she meets all other eligibility requirements.

**DECISION:**

The representative's March 10, 2008 decision (reference 01) is reversed. The claimant did not voluntarily quit her employment. Instead, the employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of February 10, 2008, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css