

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LATESSA S ZINN**

Claimant

**APPEAL NO: 07A-UI-07730-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BELLE/SIOUX CITY RIVERBOAT**

Employer

**OC: 07/01/07 R: 01  
Claimant: Appellant (2)**

Section 96.5-2- Discharge

**STATEMENT OF THE CASE:**

Latessa S. Zinn (claimant) appealed a representative's August 6, 2007 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Belle/Sioux City Riverboat (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 August 30, 2007. The claimant participated in the hearing. Tammy Mari, Teresa Hewing and Barb Holsinger appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 on November 8, 2005. The claimant worked full-time in accounting and as a cashier. The claimant went on a leave of absence on January 17, 2007. The employer granted the claimant FMLA until April 11, 2007.

As of April 11, 2007, the claimant's physician would not release the claimant to return to work. The claimant requested an additional 30 days of leave. The employer did not grant this request. Sometime after April 11, 2007, the employer sent the claimant a letter informing her she no longer worked for the employer because she had not been released to work as of April 11, 2007. The employer also told the claimant that she was welcome to apply for work after her physician released her to return to work.

The claimant's physician released her to work in mid-June. The claimant applied for a job in the employer's surveillance department. The employer did not hire the claimant for this job. The claimant established a claim for benefits during the week of July 1, 2007.

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

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. When the claimant was unable to work, the employer granted her FMLA. When this leave of absence expired, the claimant did not voluntarily quit her employment. Instead, her physician would not release her to return to work. The claimant attempted to extend her leave of absence, but the employer denied this request. When the claimant was unable to return to work, the employer terminated the claimant's employment.

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 employer terminated the claimant's employment because she was unable to work at the end of her approved leave of absence. While the employer established justifiable business reasons for discharging the claimant, the claimant did not commit work-connected misconduct. Therefore, as of July 1, 2007, the claimant is qualified to receive unemployment insurance benefits.

## **DECISION:**

The representative's August 6, 2007 decision (reference 02) is reversed. The claimant did not voluntarily quit her employment. Instead, the employer discharged the claimant for justifiable business reasons that do not constitute work-connected misconduct. As of July 1, 2007, the

claimant is qualified to receive unemployment insurance 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/pjs