

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JILISSA WEATHERLY
Claimant

APPEAL NO: 07A-UI-02374-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IA DEPT OF VETERAN AFFAIRS –
MARSHALLTOWN**
Employer

**OC: 02/04/07 R: 02
Claimant: Appellant (2)**

Section 96.5-2- a- Discharge

STATEMENT OF THE CASE:

Jilissa Weatherly (claimant) appealed a representative's February 27, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Iowa Department of Veteran Affairs – Marshalltown (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 27, 2007. Prior to the hearing, the employer notified the Appeals Section that the employer decided it would not participate in the hearing. The claimant, however, participated in the hearing. 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 employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in June 2005. The claimant worked as a full-time CNA, certified nurse assistant. The claimant cared for elderly residents.

After the employer received information that the claimant could continue working as long as the employer closely supervised her, the employer decided it could not meet this condition and discharged the claimant. The employer discharged the claimant on January 12, 2007.

Before the employer discharged the claimant, she researched the issue and learned all the employer had to do was complete paperwork that she worked so many hours and where any day she worked. The claimant believed the employer had done this for other employees. The claimant currently works for another facility and this employing entity completes the necessary paperwork for the claimant to work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. 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 may have had compelling business reasons for discharging the claimant. The facts do not, however, establish that the claimant committed work-connected misconduct. Therefore, as of February 4, 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's February 27, 2007 decision (reference 01) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of February 4, 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs