

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAULA R KNIGHT
Claimant

APPEAL NO. 08A-UI-04289-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN HOME SHIELD CORP
Employer

**OC: 03/30/089 R: 01
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, American Home Shield, filed an appeal from a decision dated April 23, 2008, reference 01. The decision allowed benefits to the claimant, Paula Knight. After due notice was issued, a hearing was held by telephone conference call on May 19, 2008. The claimant participated on her own behalf and was represented by Joseph Halbur. The employer participated by Business Process Architect Mimi Pudenz, Supervisor Misty Thoost and was represented by Unemployment Services in the person of Susan Perry.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Paula Knight was employed by American Home Shield from August 12, 2002 until April 2, 2008, as a full-time authorization specialist. On February 12, 2008, she received a final written warning when she offered more money than the employer's policy allowed. This was her first and only warning as the employer felt the severity of the violation warranted skipping several of the disciplinary steps. This is allowed by the company handbook, of which the claimant received a copy and periodic updates.

The claimant acknowledged that incident was "poor judgment" when she offered more money to a client of 20-years' standing for a very substandard servicing of his claim by the employer's contractor. She was advised her job was in jeopardy as a result.

She had made another mistake on February 15, 2008, in quoting a higher amount to a customer. The employer "gave her the benefit of the doubt" as the higher price was listed in the computer notes by another representative and was considered "human error."

On March 25, 2008, the claimant had taken a quote from a plumbing contractor to replace a client's toilet. The cost of the fixture was \$750.00, and the contractor had it on hand, having already performed a "diagnostic" on the problem at a cost of \$65.00. If the client wanted the

contractor to install the fixture it would cost a flat fee, but if not, then the return cost would be \$50.00. However, Ms. Knight had not yet contacted the client to know which option would be taken.

Ms. Knight put the figure of \$865.00 in her notes along with the cost of the fixture for \$750.00, but she did not itemize the cost, merely wrote the total estimate which included the diagnostic and possible return fee. By mistake she entered her notes into the computer system before itemizing the total of \$865.00, and she immediately notified the lead person of this. Nothing could be done at that time since it had been entered into the system but the lead said it could be taken care of when it "came out." In the meantime another specialist quoted the cost of \$865.00 to the client.

The employer became aware of this on April 2, 2008, when the work order was issued and another lead person took it to Supervisor Misty Thoost to question the cost. Ms. Thoost consulted with Business Progress Architect Mimi Pudenz and they consulted with the corporate human resources representative. The decision was made to discharge the claimant for another incident of an inflated quote.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

The claimant acknowledged being guilty of poor judgment when she authorized a higher payment to a client in February 2008, but it was done to satisfy a customer of long standing. The second incident was human error as she did quote a dollar amount contained on the computer system. The final incident was also human error. Ms. Knight erroneously entered her notes into the computer, not intending it to be a quote. She took the appropriate course of action and immediately notified her lead about the situation. Unfortunately the lead does not appear to have made further notes on the situation or informed a supervisor, merely indicated the problem would be taken care of when the work order came out.

It is unfortunate the claimant made three errors in the space of two months, but the first was an isolated incident of poor judgment, the second human error and the third was an inadvertent entering of her notes into the system when it was not intended to be a quote. There is no evidence of a willful course of conduct where she deliberately defied the employer's policies or was negligent to such a degree as to constitute deliberate misconduct. Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Newman v. IDJS, 351 N.W.2d 806 (Iowa App. 1984). Benefits are allowed.

DECISION:

The representative's decision of April 23, 2008, reference 01, is affirmed. Paula Knight is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css