

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE PARK
Claimant

APPEAL NO: 12A-UI-03868-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANIMAL RESCUE LEAGUE OF IOWA INC
Employer

OC: 02/26/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Christine Park (claimant) appealed a representative's April 2, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Animal Rescue League of Iowa, Inc. (employer). After hearing notices were mailed to the parties' last known addresses of record, a telephone hearing was held on April 30, 2012. The claimant participated in the hearing. Sarah Walker of Merit Resources appeared on the employer's behalf and presented testimony from one witness, Mick McAuliff. During the hearing, Employer's Exhibit One was entered into evidence. 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:

Was the claimant discharged for work-connected misconduct?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer on April 16, 2011. She worked part-time (about 28 hours per week) as an animal care technician. Her last day of work was February 29, 2012. The employer discharged her on that date. The stated reason for the discharge was a repeated safety violation after a recent similar warning.

There is a restricted area of the employer's premises accessible only by key in which contains animals that have been professionally determined to be at high risk for aggressive behavior. Personnel who enter that area have been instructed they cannot have physical contact with animals held in that area. On or about February 23, the animal services manager, McAuliff, received a report that the claimant had been seen petting or touching a dog that was held in a cage in the key access area. He spoke to her and reminded her that neither she nor any part of her body was to be inside the cage and that she was not to have physical contact with the dog; she responded that she understood.

On February 27 McAuliff entered the key access area and observed the claimant reaching into the cage and having contact with dog. After review, on February 29 the employer determined that, due to having had this second incident so closely following the initial verbal warning for the same issue, the claimant would be discharged.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits, an employer must establish the employee was responsible for a deliberate act or omission that was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior that 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's contact with the high-risk dog only days after having been warned and reminded that this was prohibited shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

DECISION:

The representative's April 2, 2012 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of February 26, 2012. This disqualification continues until the claimant has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw