

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAULA J CLATT
Claimant

APPEAL NO: 11A-UI-14470-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IA DEPT OF HUMAN SVCS/MT PLEASANT
Employer

**OC: 09/25/11
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 26, 2011 determination (reference 02) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing with her representative, John Graupmann. David Williams, a TALX representative, appeared on the employer's behalf with Janice Creighton and Rollin Alfred, the treatment service director, as witnesses. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in August 2010. She worked as a full-time drug abuse counselor II. Alfred supervised her. The claimant's job required her to maintain her certification as a drug abuse counselor II.

The claimant's certification expired on August 1, 2011. This was the first time the claimant went through the re-certification process. When the claimant had not submitted her re-certification paperwork by August 1, the Board gave the claimant 45 days to obtain her certification. The claimant understood she needed 40 hours of continuing education classes to become recertified. She had 16.275 hours of class hours to satisfy her 40 hours of continuing education. The claimant had 26 hours of on-line credit hours. The claimant drove to Des Moines on September 15 to submit the necessary paperwork and the money to become recertified. When the claimant handed in her paperwork and money, the person who took it indicated it looked like everything was in order.

On September 21, the claimant received notice from the Board that only 20 hours of her 26 on-line credit hours could be accepted. This meant the claimant was about three credits short. Even though she looked at the Board's website, she did not notice that only 20 hours could come from the on-line course. The claimant took many on-line credits because she had

attendance problems and she did not want to take off time to attend in-person classes. The claimant told Alfred the next day, she had not gotten her certification renewed by September 15.

On September 26, the employer discharged the claimant because her job required her to be certified and she was not certified after September 15. After she had been discharged the claimant learned that based on her experience she could be certified at a higher level. She did not pay for this certification until mid-November.

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 § 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 had no choice but to end the claimant's employment when she was unable to renew her certification by September 15, 2011. The claimant used poor judgment when she failed to timely submit her recertification paperwork and money before August 1. This was the first time the claimant had to renew her certification. She submitted over 40 hours of continuing education credits, but she did not know the Board would only accept 20 hours of on-line courses. As a result of this limitation, the claimant was about three credit hours short and could not become recertified by September 15. Since the claimant had more than 40 credit hours of continuing education and met the extended deadline to become recertified, the claimant did not commit work-connected misconduct. As of September 25, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's October 26, 2011, determination (reference 02) is reversed. The employer discharged the claimant for justifiable business reasons. While the claimant used poor judgment and may have been negligent, she did not commit work-connected misconduct. Therefore, as of September 25, 2011, the claimant is qualified to receive benefits. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs