

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY C VAUGHN
Claimant

APPEAL NO. 09A-UI-10952-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLEMONS INC
Employer

OC: 06/24/07
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Clemons, Inc. filed a timely appeal from an unemployment insurance decision dated July 22, 2009, reference 01, that allowed benefits to Mary C. Vaughn. After due notice was issued, a telephone hearing was held August 17, 2009 with Ms. Vaughn participating. Controller Lisa Cooper and Sales Clerk Marilyn Bullington participated for the employer. Employer Exhibit 1 was admitted into evidence.

ISSUE:

Was the claimant discharged for misconduct in connection with her employment?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Marilyn Vaughn was employed as an accounts payable and title clerk by Clemons, Inc. from April 28, 2009 until she was discharged June 18, 2009. On her application and during her interview Ms. Vaughn stated truthfully that she had used computers in the past in her employment. Ms. Vaughn had not worked as an accounts payable clerk in the past, however. She keeps her personal financial records manually, not using computer software to assist her. During the course of her employment, Ms. Vaughn repeatedly had difficulty retaining information and completing her tasks accurately and in a timely manner. She was discharged at the time of her first evaluation after indicating that she would be more comfortable if the accounting work was done manually with a copy in front of her as she entered information into the company computer system.

REASONING AND CONCLUSIONS OF LAW:

The question is not whether the employer had a significant business reason for discharging Ms. Vaughn. Instead, the question is whether she was discharged for misconduct in connection with her employment.

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 employer has the burden of proof. See Iowa Code section 96.6-2. The employer argued that Ms. Vaughn misrepresented her computer skills at the time of hire. That assertion is not born out in the evidence in this record. It appears that the claimant's past computer use was not in situations comparable to her job duties with this employer. Lack of skill, while a valid reason for discharging an employee, is not misconduct. No disqualification may be imposed.

DECISION:

The unemployment insurance decision dated July 22, 2009, reference 01, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/css