IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

NICOLE ARNOLD
PO BOX 372
REMSEN IA 51050-0372

WELLS DAIRY INC
PO BOX 1310
LE MARS IA 51031-1310

Appeal Number: 06A-UI-06313-SWT
OC: 05/21/06 R: 01
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319***.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

_____
(Administrative Law Judge)

_____
(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 8, 2006, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on July 11, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Alfredo Moreno participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer from June 9, 2003, to May 21, 2006. She started working as a machine operator but was promoted to the position of production team facilitator in October 2005. The claimant was informed and understood that under the employer's work rules, machine operators were required to initial code sheet periodically to track the products being ran at points in time during the shift.

The employer discharged the claimant on May 21, 2006, for unsatisfactory work performance and failing to complete the code sheets on May 15. On May 15, the production line was short-staffed and the claimant was required to fill in operating one of the machines on line one. She was the only facilitator on duty and the operator of the machine on line two was having difficulty getting the machine to operate properly. The claimant assigned someone to operate her machine while she helped the operator on line two. The claimant was held responsible for not filling out the code sheet, but it was the employee who she had assigned to operate the machine on line one who should have made the entries. The claimant performed her job to the best of her ability under adverse circumstances.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

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 substantial and 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).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful or substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated June 8, 2006, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

saw/pjs