

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MELISSA C BELTRAN KNUITSEN
Claimant

APPEAL 21A-UI-14680-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TARGET CORPORATION
Employer

**OC: 03/28/21
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Melissa C Beltran Knutsen (Melissa Beltran), the claimant/appellant filed an appeal from the June 22, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 23, 2021. Ms. Beltran participated and testified through a CTS Language Link Spanish interpreter. The employer participated through Alicia Palas, human resources.

ISSUE:

Did Ms. Beltran voluntary quit without good cause attributable to the employer, or was she discharged for disqualifying, job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Beltran began working for the employer on November 12, 2019. She worked as a part-time guest advocate.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. At that time, Ms. Beltran took unpaid, personal leave to care for her child who was attending school online, and because she had concerns related to the pandemic. Ms. Beltran returned to work on September 17, 2020. After working for about thirty minutes, Ms. Beltran told Ms. Palas that she thought she was ready to come back to work but she was not ready. Ms. Palas and Ms. Beltran talked about other opportunities that might work better for Ms. Beltran. Ms. Beltran left work that day and considered the options. On September 28, Ms. Beltran sent Ms. Palas an email message telling her that Ms. Beltran was available for work and what tasks she was comfortable doing. Unbeknown to Ms. Beltran, Ms. Palas forwarded the email to Ms. Beltran's manager and took no further action. Ms. Beltran waited for a response and received none from Ms. Palas or Ms. Beltran's manager.

By December 3, the employer and Ms. Beltran had not communicated since September 28. That day, Ms. Palas left a voice message for Ms. Beltran. Later that day, the employer sent Ms.

Beltran a letter via certified mail. In the letter, the employer told Ms. Beltran that if she did contact the employer by December 18, the employer would “administratively separate your employment.” Employer’s Exhibit 1. Ms. Beltran listened to the voice message but she did not receive the letter.

Ms. Beltran emailed Ms. Palas on December 5. Ms. Beltran stated that she was reaching out to Ms. Palas about the status of her employment. Ms. Beltran stated that she was still not able to work at that time due to her child attending school online. Ms. Beltran also stated that she was not available to work from December 12 through January 2, 2021 as she would be traveling to deal with a family matter. Ms. Beltran stated “I would like to know what are my options, how can I quit and leave the doors open in target when I felt to start working again? Or I can start working in January one day per week in the guest service area.”

Ms. Palas responded to Ms. Beltran via email on December 17. Ms. Palas told Ms. Beltran that she understood the schooling situation. Ms. Palas also stated “We can go ahead and process your resignation which would allow you to re-apply with us when life returns back to a little more normal! I’ll go ahead and get that processed.” Ms. Beltran did not see the message until after January 2, as she was dealing with her family matter from December 12 through January 2. Ms. Beltran did not respond to the message since she understood the message to mean that the employer had ended her employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Beltran was discharged from employment for no disqualifying reason.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

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 of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

In this case, Ms. Beltran did not quit; the employer ended her employment. On December 5, Ms. Beltran asked the employer what her options were. Ms. Beltran did use the word "quit" in her December 5 email, but she did not tell the employer that she was quitting. She asked how she could quit and leave the door open for future employer, or whether she could start working in January 2021. Ms. Palas answered the first part of Ms. Beltran's question – the employer could process a resignation then Ms. Beltran could apply to the employer in the future – and then she ended Ms. Beltran's employment. The employer has not presented any evidence that Ms. Beltran's employment was terminated for any misconduct. Since the employer ended Ms. Beltran's employment and has not established misconduct, benefits are allowed.

DECISION:

The June 22, 2021, (reference 01) unemployment insurance decision is reversed. Ms. Beltran did not quit. She was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Daniel Zeno
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August 27, 2021
Decision Dated and Mailed

dz/mh