

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANELLE R ENRIQUEZ
Claimant

APPEAL NO: 12A-UI-06683-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY
Employer

OC: 05/13/12
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's May 31, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because her employment separation was for non-disqualifying reasons. The claimant participated at the hearing. Aureliano Diaz, the human resource manager, appeared on the employer's behalf. 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 claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in May 2009. She worked full-time. The last day the claimant worked for the employer was February 6, 2012.

The claimant's physician completed paperwork the claimant needed to receive a medical leave of absence. The employer granted the claimant a leave of absence from February 7 through March 20, 2012. The claimant used all her leave as of March 19, 2012. The claimant's physician did not release her to return to work by March 20, 2012.

The employer discharged the claimant on March 23 because she did not return to work on March 20. Although the claimant called the employer every day to report she was unable to work, the human resource department did not receive this information. The claimant did not return to work on March 20 because her physician did not release her to work until April 27, 2012.

On April 18, the claimant received a letter dated April 16 indicating she been terminated and was no longer covered under the employer's health insurance. When the claimant called the employer about her termination, she learned her termination was based on a new policy implemented within the last year.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The evidence does not establish that the claimant voluntarily quit her employment. The employer terminated her employment on March 23, 2012, when the claimant did not return from her leave of absence on March 20.

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant did not return to work on March 20, because her physician did not release her to return to work until April 27, 2012. The claimant had previously been on a leave of absence and as of March 19, 2012, she had used all her Family Medical Leave that guaranteed she had a job if she returned to work on March 20. After March 19, the employer was not required to guarantee a job to the claimant when her physician released to work. The evidence establishes the claimant did not return to work on March 20 because she was unable to work or still restricted from working. While the employer had justifiable business reasons for terminating the claimant's employment, she did not commit work-connected misconduct. As of May 13, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's May 31, 2012 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of May 13, 2012, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw