

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on September 29, 2003. The claimant worked full time for the employer. The claimant's last actual day of work was July 19, 2005.

The claimant requested and was granted a medical leave of absence from July 19 to August 1, 2005. The claimant's doctor restricted the claimant from work during this time frame.

While the claimant was on the medical leave, she called the employer about every other day informing and reminding the employer she was unable to work based on her doctor's restrictions. The claimant's doctor was adjusting the claimant's medications on August 1. On August 1, the claimant notified the employer that she was still unable to work to return and would not be at work the next day either. The claimant had a doctor's appointment on August 3. The claimant continued to contact the employer to inform the employer she was unable to work as scheduled. The claimant's doctor restricted the claimant from returning to work until August 15, 2005.

On August 10, 2005, the claimant received a letter from the employer informing her that she needed to provide documentation that her medical leave had been extended. The next day, the claimant's doctor faxed to the employer a statement indicating the claimant was restricted from working from August 3 to 15, 2005.

On August 14, the claimant went to the employer's office because she planned to report to work the next day. The employer then informed the claimant that the employer considered her to have quit as of August 1 because she had not called the employer since July 25 to report she was unable to work. The claimant had, however, kept in contact with the employer since July 25. Later the employer concluded the claimant had voluntarily quit because she did not return to work on August 1 and did not provide the employer with a doctor's statement verifying she was unable to work August 1 and 2.

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 facts do not support the employer's assertion that the claimant quit her employment. A person who keeps in regular contact with the employer and then goes to the office on August 14 because her doctor released her to work on August 15 does not intend to quit. The employer initiated the employment separation and discharged the claimant on August 14, 2005.

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).

Initially, the employer discharged the claimant because the employer incorrectly assumed the claimant had not contacted the employer since July 25. After the claimant proved this statement was inaccurate, the employer then asserted she was discharged because she failed to report to work on August 1 and 2. In the employer's August 9 letter, the employer did not indicate the claimant would not have a job if her doctor did not state she could not work August 1 through 15, 2005. The doctor's failure to specifically state the claimant was unable to work August 1 and 2 at most amounts to an error in judgment. The facts establish the claimant was still under a doctor's care. The employer failed to give the claimant an opportunity to provide documentation that either supported or did not support the claimant's absence on August 1 and 2.

The claimant followed the employer's rules and directions to the best of her ability. On August 1 and 2 she was unable to work as a scheduled and properly notified the employer of this fact. The claimant did not commit work-connected misconduct. Therefore, as of August 14, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's September 6, 2005 decision (reference 02) is reversed. The claimant did not voluntarily quit her employment. Instead, the employer discharged her for reasons that do not constitute work-connected misconduct. As of August 14, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kjw