

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NATALIE PETERSON**  
Claimant

**APPEAL NO: 16A-UI-05019-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOODWILL INDUSTRIES OF NE IA INC**  
Employer

**OC: 04/03/16  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 26, 2016, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 13, 2016. The claimant participated in the hearing. Monty Gritzner, Operations Manager; Michelle Peters, Retail Store Manager; and Amelia Gallagher, Employer Representative; participated in the hearing on behalf of the employer. Employer's Exhibits One through Eight were admitted into evidence.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time attendant at the attendant donation center for Goodwill Industries from May 30, 2012 to April 8, 2016. She was discharged after oversleeping and being five and one-half hours late April 3, 2016. She felt badly about being late and clocked out at her correct end time but stayed late to help prepare the attendant donation center for the following day. The employer did not want her to work off the clock and stated her actions were insubordinate. The claimant had never received any previous verbal or written warnings regarding her attendance.

On June 26, 2015, the claimant received a written warning and one day unpaid suspension for putting a sold tag on an item prior to the time she was allowed to do so.

On July 9, 2015, the claimant received a written warning and three day unpaid suspension after she purchased items June 29, 2015 but failed to remove them from the building (Employer's Exhibits Four and Five). Additionally, she rang up an employee purchase for a co-worker who was on company time July 5, 2015 (Employer's Exhibits Four and Five).

On September 17, 2015, the claimant received a written warning and five day unpaid suspension for violating the employer's purchasing policy (Employer's Exhibit Six).

## REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv., 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proving disqualifying misconduct. 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 claimant was five and one-half hours late April 3, 2016, because she overslept, she had no history of attendance or tardiness issues during her four year tenure with the employer nor could the employer cite any other incidents of absenteeism or tardiness. Consequently, the

final situation was an isolated incident of misconduct. The claimant did receive three previous written warnings for violating the employer's purchasing policy, accompanied by unpaid suspensions of varying lengths, with the last incident and warning occurring September 17, 2015. The claimant did not violate that policy again and did not receive any warnings for the succeeding seven months.

Under these circumstances, the administrative law judge concludes the claimant's actions do not rise to the level of disqualifying job misconduct as that term is defined by Iowa law. The employer has not met its burden of proof. Therefore, benefits must be allowed.

**DECISION:**

The April 26, 2016, reference 01, decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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