

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JULIE A CHARLIER**  
Claimant

**L A LEASING INC**  
Employer

**APPEAL NO. 14A-UI-06515-SWT**

**ADMINISTRATIVE LAW JUDGE  
AMENDED DECISION**

**OC: 12/22/13  
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge  
Section 96.3-7 – Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated June 13, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on July 16, 2014. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Colleen McGuinty participated in the hearing on behalf of the employer with a witness, Kim Woehlke. Exhibits One through Three were admitted into evidence at the hearing.

A decision in this matter was issued on July 21, 2014. It has come to the administrative law judge's attention that a miscalculation was made in computing the amount of the overpayment. This amended decision corrects the amount of the overpayment to be \$2,695.00.

**ISSUES:**

Was the claimant discharged for work-connected misconduct?  
Was the claimant overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time for the employer on an assignment at TM Logistics from September 3, 2013, to May 16, 2014.

The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify the employer 30 minutes before the start of their shift if they were not able to work as scheduled. The claimant had been warned about absenteeism in the past.

On May 17, 2014, the claimant was absent from work without notice to the employer in violation of the employer's work rules. As a result, the claimant was discharged from assignment at TM Logistics.

The claimant reopened her claim for unemployment insurance benefits effective May 25, 2014. The claimant filed for and received a total of \$2,695.00 in unemployment insurance benefits for the weeks between May 25 and July 12, 2014.

A fact-finding interview was held on June 12, 2014. Colleen McGuinty participated in the fact-finding interview and provided detailed information about the claimant's separation from employment.

### **REASONING AND CONCLUSIONS OF LAW:**

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

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

The next issue is whether the claimant was overpaid unemployment insurance benefits.

The unemployment insurance law generally requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. But a claimant is not required to repay an overpayment when an initial decision to award benefits on an employment-separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid \$2,695.00 in benefits.

Because the employer participated in the fact-finding interview, the claimant is required to repay the overpayment.

**DECISION:**

The unemployment insurance decision dated June 13, 2014, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant was overpaid \$2,695.00 in benefits, which she is required to repay.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs