

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**AUDRA L. LEWIS**  
Claimant

**APPEAL 20A-UI-10736-BH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AUREON CONTACT SERVICES, INC.**  
Employer

**OC: 03/22/20**  
**Claimant: Appellant (2)**

Iowa Code section 96.5(1) – Voluntary Quit  
Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause  
Iowa Code section 96.5(2)(a) – Discharge for Misconduct  
Iowa Administrative Code rule 871-24.32(1)(a) – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Audra L. Lewis appealed the August 28, 2020 (reference 02) unemployment insurance decision that denied benefits. The agency properly notified the parties of the hearing. The undersigned presided over a telephone hearing on October 20, 2020. Lewis participated personally and testified. Aureon Contact Services, Inc. (Aureon) did not participate. Claimant's Exhibits A, B, and C were admitted into evidence.

**ISSUES:**

Was Lewis's separation from employment with Aureon a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

Did Aureon discharge Lewis for job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Aureon hired Lewis on April 22, 2019. Lewis worked full time as a technical support representative. Aureon informed Lewis it would end her employment by layoff effective June 12, 2020. Aureon then discharged Lewis on June 4, 2020.

The federal government required over-the-road truckers to use electronic logs. Previously, truckers could use paper or electronic logs. Aureon's business included helping companies and truckers transition to electronic logs. The mandate increased business. Aureon hired more employees to meet demand. The deadline for implementing electronic logs meant that Aureon's business slowed down, so it did not need as many employees.

Aureon announced a series of layoffs. Lewis was among the 20 employees in her department who Aureon informed it would be laying off as part of the cuts. Aureon informed Lewis her employment would end on June 12, 2020.

However, on June 4, 2020, Aureon management met with Lewis via Zoom. Management made multiple false claims about Lewis's work. Aureon informed Lewis she had been subjected to a "random audit." Lewis had never heard of such a practice at Aureon before the meeting. Lewis credibly testified that she did not engage in any of the conduct Aureon alleged. Thus, Aureon discharged Lewis based on baseless allegations.

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

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

Iowa Code section 96.3(1) requires the agency to pay unemployment insurance benefits to claimants who are totally unemployed if they meet the eligibility requirements in section 96.4 and are not disqualified under section 96.5. One reason a claimant might be disqualified is the nature of their separation from employment. Here, the evidence shows Aureon was going to end Lewis's employment due to lack of work on June 12, 2020. Lewis is therefore entitled to unemployment insurance benefits from June 12, 2020, moving forward because Aureon had no ongoing work for her.

Aureon discharged Lewis for baseless reasons on June 4, 2020. Because of the discharge, this decision must decide whether Aureon's decision to discharge Lewis disqualifies her from benefits. In appeals such as this one, the issue is not whether the employer made a correct decision in discharging 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).

Under Iowa Code section 96.5(2)(a), an individual is disqualified for benefits if the employer discharges the individual for misconduct in connection with the individual's employment. The statute does not define "misconduct." But Iowa Administrative Code rule 871-24.32(1)(a) does:

"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.

The Iowa Supreme Court has ruled this definition accurately reflects the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Administrative Code rule 871-24.32(4) states:

The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

Under Iowa Administrative Code rule 871-24.32(8),

While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

Further, 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). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988).

Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Further, poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

Aureon did not participate in the hearing and therefore did not present any evidence supporting any allegation of misconduct. Under rule 871-24.32(4), "Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established."

In contrast, Lewis participated in the hearing, offered exhibits, and gave credible testimony under oath. Lewis denied engaging in the conduct Aureon alleged and that formed the basis for its discharge of her. The weight of the evidence shows that Aureon's allegations against Lewis are baseless.

For these reasons, Aureon failed to meet its burden of proof. The evidence presented at hearing establishes it is more likely than not that Aureon discharged Lewis for no disqualifying reason under Iowa law. Lewis is therefore entitled to benefits, provided she is otherwise eligible under the law.

**DECISION:**

The August 28, 2020 (reference 02) unemployment insurance decision is reversed. Aureon discharged Lewis from employment for no disqualifying reason. Benefits are allowed, provided Lewis is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

A handwritten signature in black ink, appearing to read "Ben Humphrey", with a stylized flourish extending from the end.

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Ben Humphrey  
Administrative Law Judge

October 26, 2020  
Decision Dated and Mailed

bh/scn