

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY R KLINGSMITH
Claimant

APPEAL NO: 12A-UI-04343-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

OC: 03/18/12
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's April 12, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing. Kirstie Horton and Jeremy Boettcher appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in June 2005. The last 18 months of her employment, the claimant worked as the mold room supervisor. The former supervisor, Lee Klett, trained the claimant. He showed her how to do her job duties and how to complete the paperwork connected with her job. When Klett started the supervisor's job, the lead person, M.S., trained Klett on the employer's policies and paperwork he had to complete. M.S. was also the claimant's lead person. When the claimant started the supervisor's job, she was told metal detector checks needed to be done at the beginning of a shift, at the first break, lunch, at the second break and at the end of the shift. This schedule meant metal detector checks would be completed every 2.5 hours. The claimant was also told that if the metal checks were all right from one check to the next, it could be assumed that everything between that 2.5 hour span was also all right. The metal detector audit sheet indicated metal checks were done every hour. The claimant initialed the audit sheet to verify the accuracy of the audit report.

Before the employer revised the audit sheet in May 2011, the claimant planned to change the sheet to reflect how many actual times the metal detector checks were made, but she was not present when the final draft was implemented. Metal detector checks are also done in another department, but the checks are done every 2.5 hours.

In February 2011, the claimant received a final written warning and a suspension after she falsified a report connected with a fire in the smokehouse. The claimant admitted she had done this and she recognized that what she had done was wrong.

On January 31, 2012, metal was found in a product. When the employer investigated, some employees reported that the claimant never did metal detector checks. The employer learned metal detector checks were done, but not hourly. Instead the checks were done every 2.5 hours. The claimant told the employer how she had been trained to do the metal detector checks and how to complete the paperwork associated with the checks. On January 31, 2012 the employer suspended the claimant so the employer could complete its investigation.

On March 18, 2012, the employer discharged the claimant for falsifying the metal detector audit sheets by certifying the metal detector checks had been every hour instead of every 2.5 hours. The employer considered the fact the claimant received a final written warning in February 2011 for providing false information to the employer.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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).

The facts establish the lead employee, who worked before the claimant became the supervisor and when she was the supervisor, in addition to the former supervisor who trained the claimant, told the claimant that metal detector checks were done every 2.5 hours. The claimant knew the department was short-staffed at times so she did not think anything about doing the checks every 2.5 hours, but recording information as if the checks had been done every hour. Even though the claimant was not truthful about an incident in February 2011, she admitted she used poor judgment in that incident and understood her job was in jeopardy if there were any more problems of a similar nature. The claimant's testimony about how she was trained by the former supervisor and the lead employees is credible and supported by Lee Klett's written statement. As a result of this training and completing the metal detector audit forms the same way throughout the time she was the supervisor establishes the claimant did not intentionally violate the employer's metal detection policy. The claimant believed she was doing this job correctly.

The employer established business reasons for discharging the claimant, but she did not commit work-connected misconduct. As of March 18, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's April 12, 2012 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not intentionally violate the employer's policy or commit work-connected misconduct. As of March 18, 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/css