

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELIDA M MURILLO
Claimant

APPEAL NO. 12A-UI-07632-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPHERION STAFFING LLC
Employer

OC: 06/03/12
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 25, 2012, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on July 23, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing, with the assistance of an interpreter, Ike Rocha. Teresa Wray participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer on an assignment as a warehouse worker at Hewlett Packard from August 15, 2011, to June 6, 2012.

The employer discharged the claimant from the assignment due to inability to speak and understand English. This was not a requirement when the claimant was hired, but was imposed by HP due to safety concerns.

REASONING AND CONCLUSIONS OF LAW:

The 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).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. The discharge was due to inability to speak English not any willful misconduct.

DECISION:

The unemployment insurance decision dated June 25, 2012, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs