

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

PAUL S GOODMAN  
156 N 3<sup>RD</sup> ST  
ROCKWELL CITY IA 50579

NORTHWOODS LIVING INC  
1470 – 21<sup>ST</sup> AVE N  
FORT DODGE IA 50501

Appeal Number: 05A-UI-03876-DWT  
OC: 03/13/05 R: 02  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Paul S. Goodman (claimant) appealed a representative's April 7, 2005 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Northwoods Living, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 11, 2005. The claimant participated in the hearing. Linda Smith, Beth Goebel, Tiffany Pearl, Tina Leonard, Cheryl Colvin, and Mandy Freeden appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

## FINDINGS OF FACT:

The claimant started working for the employer on July 21, 2004. The claimant worked as a full-time developmental assistant. Goebel was his supervisor.

Prior to March 5, 2005, the claimant's job was not in jeopardy and there had not been any problems between the claimant and his co-workers. On March 5, the claimant, Cheryl Colvin and Mandy Freeden were in the dining area feeding residents. The claimant understood that Colvin told a resident to shut up. When the claimant reproached Colvin for making this kind of a remark to a resident, Colvin started arguing with the claimant and denied she had made the remark. The two engaged in a verbal confrontation where Colvin told the claimant more than once to shut up. The claimant became upset with Colvin and called a supervisor on duty to come to that area.

Pearl and another employee arrived at the claimant's location within a short time. The claimant was still frustrated and upset when Pearl arrived. Pearl talked to the individuals involved in the incident. When she talked to the claimant, he told what had happened. Even though the claimant was still visibly upset, Pearl asked the claimant to make a written statement as to what had occurred. The claimant became very upset with Pearl after she told him that some of his perceptions about Colvin were "in his head." The claimant indicated he had to leave and told Pearl he was going to leave work early. Pearl's question about whether the claimant was quitting, further agitated the claimant. He responded by indicating he was not quitting and would contact Smith and his attorney. Although Pearl would have transferred the claimant to another area, she knew he was leaving work early that and was very upset when he left. The employer was able to cover the claimant's work duties during that shift.

The claimant called Smith and asked for a meeting with Smith and Goebel. On March 6, 2005, when the claimant reported to work, Goebel and another supervisor told the claimant he needed some time off and had to go home. This action resulted in the claimant canceling a meeting scheduled on Tuesday, March 8 because the claimant's attorney could not attend and the claimant wanted someone with him so the employer could not "gang up on him." On March 8, the claimant wrote a detailed report on various problems and his perception as to what happened on March 5. The employer received a copy of this report.

Even though the employer received the claimant's written statement, the employer still wanted to talk to him in person to find out why he had been so upset on March 5. In response to the claimant's concerns the employer set up a committee of neutral employees. When the claimant talked to the head of that committee he understood his written report would satisfy the employer's request for a report. The employer unsuccessfully tried to set up a meeting with the claimant as late as Thursday, March 10. The employer did not tell the claimant a meeting was mandatory and if he did not meet with the employer by a certain date, his job was in jeopardy.

Based on the reports from other employees, the claimant's written letter, which the employer did not consider satisfactorily addressed his actions on March 5, the erratic messages the claimant left on employees' answering machines and the claimant's failure to cooperate by meeting the employer, the employer discharged the claimant on March 10, 2005.

## REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him 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 employer established compelling business reasons for discharging the claimant. The claimant has an extremely high set of principles. As a result of his high standards, he can be a very difficult person to deal with and communicate. In some respects the problems that occurred in this case was the product of a major communication breakdown. Even though the claimant did not meet with the employer after the March 5 incident, the employer never told the claimant his job was in jeopardy if he did not meet with the employer by a certain day. While the claimant's letter discussed many subjects or issues that concerned the claimant, he also addressed the March 5 incident in his statement. Unfortunately, the employer was not satisfied with the claimant's written report and wanted to know more from the claimant.

On March 5, the claimant was very upset after Colvin told him several times to shut up. Residents were obviously upset by the verbal confrontation that the claimant and Colvin engaged in. Both the claimant's and Colvin's conduct during the verbal confrontation was unprofessional and upset the residents. Since Colvin still works for the employer, the fact these two people engaged in a verbal confrontation in front of residents does not rise to the level of work-connected misconduct.

Prior to March 5, the claimant's job was not in jeopardy and he had never previously been involved in an incident similar to what happened on March 5. The employer acknowledged the claimant followed the proper procedure when he called Pearl. For whatever reason, comments Pearl made to the claimant upset him even more. As a result, he became more irritated and upset with Pearl. While the claimant was very upset, he left work even though Pearl would have assigned him to another area so he would not have worked with Colvin. The fact the claimant left work early this one time when he was extremely upset does not rise to the level of work-connected misconduct.

It is understandable why the employer wanted to personally meet with the claimant after March 5, but the claimant's failure to meet with the employer after he provided a written

statement and had no idea his job was in jeopardy does not establish that the employer discharged him for work-connected misconduct. Therefore, as of March 13, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's April 7, 2005 decision (reference 01) is reversed. The employer discharged the claimant for compelling business reasons that do not constitute work-connected misconduct. As of March 13, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/sc