

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TODD R WISEMAN
Claimant

APPEAL NO: 12A-UI-06153-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OTTUMWA PIZZA RANCH LLC
Employer

OC: 04/22/12
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 16, 2012 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, 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 on November 28, 2011. He worked full-time as the general manager at a new store. The claimant understood, in accordance with the employer's policy, a supervisor was not allowed to date an employee he supervised. The claimant understood that if a supervisor and an employee developed a personal relationship, the supervisor would be given the opportunity to transfer to another location and if the supervisor refused, the employer could then discharge the supervisor. Prior to April 23, 2012, the claimant had no understanding his job was in jeopardy and the owner had not indicated he had any problems with the claimant.

C.N. became employed on February 8, 2012. The claimant went out with her once before she started working for the employer. He supervised her, but was not dating her or in a relationship with her when she started working for the employer or after she became employed.

On April 23, the owner told the claimant he was terminated because he received a written statement from an employee that the claimant was dating an employee he supervised. Even though the claimant asked to see the written statement, the employer did not show the claimant or allow him to read any statement.

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 may have had business reasons for discharging the claimant. Since the employer did not participate in the hearing, the employer did not present any evidence that established the claimant committed work-connected misconduct. Instead, the facts establish the claimant did not date or have any relationship with C.N. after the employer hired her. The facts do not establish that the claimant violated the employer's policy about dating or having a relationship with employees he supervised. As of April 22, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's May 16, 2012 determination (reference 01) is reversed. The employer discharged the claimant, but did not establish that the claimant committed work-connected misconduct. As of April 22, 2012, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw