

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA G GIBSON
Claimant

APPEAL NO: 10A-UI-12860-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IAC IOWA CITY LLC
Employer

OC: 08/15/10
Claimant: Appellant (1)

Section 96.5-2-a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 9, 2010 determination (reference 01) that disqualified the claimant from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for work-connected misconduct. The claimant participated in the hearing. Teresa Feldman, an assistant human resource manager, appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on June 4, 2010. The employer hired her to work as a full-time finisher on second shift. When the claimant began working, the employer gave her a handbook with the employer's rules. The handbook states that any employee who leaves the plant for any reason (other than lunch) without obtaining permission from their immediate supervisor will be considered to have walked off the job or voluntarily quit employment. The employer's policy further states that telling another employee does not serve as proper notice for leaving work. (Employer Exhibit One.)

On August 13, the claimant reported to work as scheduled at 2:30 p.m. The claimant did not feel well and left around 6:30 p.m. She signed out, but may not have indicated why she was leaving. After the claimant left work she talked to her brother. He also works for the employer and suggested she call her supervisor to let her supervisor know that she and left work early and why. The claimant called her supervisor after she left work and was home.

When the claimant reported to work on Monday, August 16, a human resource representative told the claimant the employer considered her to have quit when she walked off the job without authorization on August 13. The employer did not allow the claimant to continue her employment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-1, 2-a. Although the employer asserted the claimant quit when she left work without authorization, the facts do not establish that the claimant intended to quit. The employer made the decision the claimant could not return to work and discharged her.

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 claimant received the employer's handbook that contained the employer's policy. It was the claimant's responsibility to read the handbook, which clearly states employees must receive authorization from a supervisor before leaving work early. If the claimant did not remember or understand what the procedure was to leave work early, she could have asked a co-worker. Instead, the claimant chose to leave work early without talking to her supervisor or anyone in management. For unemployment insurance purposes, the claimant committed work-connected misconduct when she left work early without authorization on August 13, 2010. Therefore, she is not qualified to receive benefits as of August 15, 2010.

DECISION:

The representative's September 9, 2010 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of August 15, 2010.

This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css