

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAUREN A RAMIREZ
Claimant

SOLAR PLASTICS LLC
Employer

APPEAL 19A-UI-03799-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/14/19
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 2, 2019, (reference 01) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on May 30, 2019. Claimant participated personally and was represented by attorney Matthew Denning. Employer participated through human resource manager Carrie Lantz and was represented by attorney Taylor Hunter. Employer's Exhibits 1 through 4 were received.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on August 22, 2017. Claimant last worked as a full-time trimmer. Claimant was separated from employment on April 16, 2019, when she was terminated.

Employer has policies stating that falsifying time records or recording time on another employee's time record may result in disciplinary action, up to and including termination. The policies are included in employer's handbook. Claimant signed an acknowledgement stating she received the handbook and acknowledging it was her responsibility to read and understand the contents of the handbook.

On April 16, 2019, claimant was scheduled to work at 7:00 a.m. Claimant's boyfriend was also employed by employer. Claimant's boyfriend used claimant's badge to clock her in for work at 6:59, even though she was not yet present in the workplace. When claimant arrived at work at 7:01 a.m., she did not attempt to clock in as her boyfriend informed her he had done so on her behalf. Claimant did not notify any member of management that her time card had been falsified.

Later that day, a member of management was reviewing surveillance footage for unrelated reasons. The manager observed claimant's boyfriend clock her in when she was not yet

present in the workplace. The manager observed claimant walking past the time clock and not attempting to clock in.

Director of operations Tom Meeboer, plant superintendent John Brooks, and human resource manager Carrie Lantz met with claimant and her boyfriend. Claimant admitted that her boyfriend clocked her in and that she was aware he did so.

Employer terminated claimant's employment. Employer also terminated claimant's boyfriend.

Claimant had never been previously disciplined for similar conduct.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

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 Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988). The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661 (Iowa 2000).

Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

In this case, claimant was complicit in the falsification of her time card. Although claimant was aware her time card had been falsified on her behalf, she did nothing to report the issue to management. Claimant's actions were in deliberate disregard of employer's interests and in violation of its policy prohibiting falsification of time cards. Employer has established claimant was terminated for job-related misconduct.

DECISION:

The May 2, 2019, (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn