

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REBECCA CASTILLO-MOYERS

Claimant

APPEAL NO: 13A-UI-09652-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

US BANK NATIONAL ASSOCIATION

Employer

OC: 07/28/13

Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 20, 2013, reference 01, that held she was discharged for misconduct on July 30, 2013, and benefits are denied. A telephone hearing was held on September 25, 2013. The claimant participated. Mike Cisney, District Manager, participated for the employer. Claimant Exhibits A and B was received as evidence.

ISSUE:

Whether claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on December 3, 2003, and last worked for the employer as a full-time sales/service manager on July 30, 2013. She worked at a Burlington, Iowa office location.

On July 30 district manager terminated the branch manager and he stood by as he was gathering his personal items. Claimant appeared and questioned what was going on. The district manager told her not to discuss the matter and he asked her to return to her office.

Claimant returned to her office but came back with employee Brown. The district manager asked them twice to leave, and return to their work. When claimant persisted with a statement you do not have to treat me like a two-year-old child. She was given an instruction to leave employment or take an unpaid leave for the day. Claimant left.

The district manager consulted with the HR department about claimant's conduct. The employer has of code of ethics policy on insubordination and it is a termination offense. The employer called claimant on July 31 and discharged her for insubordination.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

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.

871 IAC 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.

The administrative law judge concludes employer established claimant was discharged for misconduct on July 30, 2013 for failing to follow repeated employer instructions to leave the termination site and return to her office.

Claimant admitted she was told three times to leave the office area where the branch manager was departing due to employment termination and she refused. It is understandable and reasonable the district manager did not want employee interference in this matter. He made it clear to claimant he wanted her to leave, return to her office and work. He would discuss the matter later.

Misconduct is established where an employee fails to obey a reasonable management instruction. Claimant's return to the employment termination office area and subsequent refusal to leave constitutes job disqualifying misconduct.

DECISION:

The department decision dated August 20, 2013, reference 01, is affirmed. The claimant was discharged for misconduct on July 30, 2013. Benefits are denied until the claimant requalifies

by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css