

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

JENNIFER E STANTON
1411 W LINN ST
MARSHALLTOWN IA 50158

CARE INITIATIVES
c/o JOHNSON & ASSOCIATES
PO BOX 6007
OMAHA NE 68106-6007

Appeal Number: 04A-UI-02095-DWT
OC 01/25/04 R 02
Claimant: Respondent (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, 4th 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 are 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Care Initiatives (employer) appealed a representative's February 23, 2004 decision (reference 01) that concluded Jennifer E. Stanton (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 15, 2004. The claimant participated in the hearing. Lynn Corbeil, attorney at law, represented the employer. Joy Plante, the housekeeping supervisor, and Ann Fiscus, the administrator, were present on the employer's behalf. During the hearing, Employer's Exhibits One through Four were offered and admitted evidence. 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 January 6, 2002. She worked as a full-time housekeeper. Plante was the claimant's supervisor. The claimant understood that for safety reasons the employer did not allow maid carts to be left unattended with chemicals out in the open.

During her employment, the claimant received several written warnings for failing to clean rooms thoroughly. On January 13, 2004, the employer gave the claimant her final written warning for failing to clean a room properly. The employer told the claimant on January 13, 2004 the next time there was a problem with her work she would be discharged.

On January 26, 2004, the claimant was in the process of cleaning a room. When she passed her grandfather's room, she decided to talk to him about a missing shirt. When the claimant went into her grandfather's room, she left her cart unattended in the hall. The claimant left the chemicals on the cart so anyone could take a chemical off the cart. A nurse saw the unattended cart and reported this to the employer. The cart was left in the hall unattended between two and five minutes. The employer discharged the claimant on January 26 for leaving her cart in the hallway unattended.

The claimant established a claim for unemployment insurance benefits during the week of January 25, 2004. The claimant has not filed any weekly claims.

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).

When the claimant received her final written warning on January 13 she knew or should have known her job was in jeopardy if she violated any of the employer's rules. The claimant knew the employer did not allow employees to leave housekeeping carts unattended. The evidence

indicates the claimant did not have to speak to her grandfather during her work shift, but she did. The claimant made a conscious decision to leave her cart unattended. The claimant took a chance no one would see her unattended cart and lost. The employer discharged the claimant for work-connected misconduct. As of January 25, 2004, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's February 23, 2004 decision (reference 01) is reversed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of January 25, 2004. 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.

dlw/kjf