

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHARON L PARAMO
Claimant

APPEAL NO. 08A-UI-09492-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

**OC: 09/14/08 R: 01
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 10, 2008, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on November 7, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Bill O'Neil participated in the hearing on behalf of the employer with witnesses, Pamela Pope and Dominic Hayes. Exhibits One and Two were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a center associate from March 20, 2006, to September 17, 2008. The claimant was informed and understood that under the employer's work rules, she was required to immediately report any arrest or charges for any felony or misdemeanor to her supervisor or to the advice line. The employer reserved the right to assess the impact of off-duty misconduct on the employer's interests and take disciplinary action against the employee up to termination of employment.

On April 16, 2006, the claimant was arrested and charged with second-degree felony theft as a result of an incident with her previous employer on December 1, 2005. The claimant was jailed after her arrest. She called her supervisor and informed him about her arrest. The next day, she reported to work and explained the charges. Her supervisor told he would take care of the situation. She also informed her supervisor in August 2006 that she was going to court on August 18, 2006, to plead guilty to the charge. She was allowed a vacation day for her court appearances. She received a deferred sentence that involved being on probation for two years and making restitution.

On September 4, 2008, the employer received an anonymous phone call stating the claimant had a felony conviction. The employer's corporate investigator questioned the claimant and she admitted that she had a felony conviction.

On September 17, 2008, the employer discharged the claimant for failing to disclose the theft charge and conviction.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I am convinced that the claimant promptly reported her arrest, the charge against her, and the conviction to her supervisor. No rule violation occurred. No misconduct has been proven.

DECISION:

The unemployment insurance decision dated October 10, 2008, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css