

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WENDI J WARD**  
Claimant

**APPEAL NO. 10A-UI-05111-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MEDICAL STAFFING NETWORK INC**  
Employer

**OC: 08/30/09**  
**Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Medical Staffing Network, Inc. filed an appeal from a representative's decision dated March 26, 2010, reference 02, which held that no disqualification would be imposed regarding Wendi Ward's separation from employment. After due notice was issued, a hearing was held by telephone on June 21, 2010. Ms. Ward participated personally. The employer participated by Cheryl Percy, Branch Manager, and Phyllis Giovannini, Director of Employee Relations. Exhibits One, Two, and Three were admitted on the employer's behalf. The employer was represented by Margaret Barnes of Talx Unemployment Services.

**ISSUE:**

At issue in this matter is whether Ms. Ward was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Ward was employed by Medical Staffing Network, Inc. from July 2, 2007 until February 19, 2010. She was last employed full time as a senior staffing coordinator. She was discharged for refusing to sign a performance improvement plan.

The employer met with Ms. Ward on February 18 and presented her with a written performance improvement plan and asked her to sign it. She indicated she did not agree with it and would not sign. The employer explained that, pursuant to policy, she had to sign to acknowledge receipt of the document and she still refused. She was told she could be discharged for refusing to sign and she again refused stating she did not agree with the allegations. The employer told her she could take it home, write a rebuttal, and come in the next day.

Ms. Ward left the February 18 meeting with the belief that any rebuttal she wrote would be discussed before a final decision as to whether she would be required to sign the performance improvement plan. She faxed her rebuttal to the employer on February 19. She reported to work on February 19 and worked approximately three hours. The employer asked if she had signed the performance improvement plan and she indicated she had not done so. Ms. Ward

was told she was going to be fired and she asked if she could change her mind about signing it. She was not allowed to do so. The above matter was the sole reason for the discharge.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The refusal to sign a written warning to acknowledge receipt constitutes misconduct. Green v. Iowa Department of Job Service, 299 N.W.2d 651 (Iowa 1980). However, the refusal or failure to perform a specific task does not constitute misconduct in the failure or refusal is in good faith or for good cause. Woods v. Iowa Department of Job Service, 327 N.W.2d 768 (Iowa App. 1982).

It is undisputed that Ms. Ward refused to sign the performance improvement plan on February 18. However, the employer did not discharge her on that date. The employer allowed her the opportunity to take the document home. At the same time, the employer gave her the opportunity to write a rebuttal. Given these factors, it was not unreasonable for Ms. Ward to believe there would be further discussions about the plan in light of the rebuttal she submitted. For this reason, her failure to submit a signed performance improvement plan along with the rebuttal was based on a good-faith that she might not be required to sign it in light of her rebuttal. Ms. Ward attempted to rectify the situation once she realized that there would be no further discussion of the plan or her rebuttal. She asked if she could change her mind about signing the form but was not allowed to.

Ms. Ward's actions did not evince a willful or wanton disregard of the employer's standards. She believed the performance plan was still open for discussion. The refusal to sign the plan did not constitute substantial misconduct such as would warrant a disqualification from job insurance benefits.

**DECISION:**

The representative's decision dated March 26, 2010, reference 02, is hereby affirmed. Ms. Ward was discharged but misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs