

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**REGINA A ALLEN**  
Claimant

**APPEAL NO. 10A-UI-05197-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARKETLINK INC**  
Employer

**OC: 02/14/10  
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Marketlink, Inc. filed an appeal from a representative's decision dated March 29, 2010, reference 02, which held that no disqualification would be imposed regarding Regina Allen's separation from employment. After due notice was issued, a hearing was held by telephone on May 20, 2010. The employer participated by Amy Potratz, Human Resources Manager. Ms. Allen did not respond to the notice of hearing.

**ISSUE:**

At issue in this matter is whether Ms. Allen 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. Allen was employed by Marketlink, Inc. from August 17 until November 20, 2009 as a full-time sales representative. She was discharged as a result of a verbal altercation with a coworker on the sales floor on November 20. Details of the altercation are unknown. The incident of November 20 was the sole reason for the separation.

**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). Ms. Allen was discharged as a result of a verbal altercation with a coworker while on the sales floor. There was no evidence as to which worker instigated the confrontation or whether Ms. Allen had the opportunity to retreat from it. There was no evidence as to the duration of the incident. The employer testified that there was profanity used but could not identify which worker used it. There was no evidence as to whether Ms. Allen continued the confrontation after being directed by management to cease.

It was incumbent upon the employer to provide specific details concerning the reasons for discharge as mere allegations of misconduct are not sufficient to result in disqualification. See 871 IAC 24.32(4). The employer herein did not provide sufficient details to enable the administrative law judge to determine the extent of Ms. Allen's culpability in the November 20 incident. A single "hot-headed" incident is not sufficient to establish disqualifying misconduct. On the other hand, a drawn out confrontation accompanied by profanity might constitute a substantial disregard of the employer's standards sufficient to warrant denying benefits.

Without specific details of what transpired on November 20, the administrative law judge concludes that the employer failed to satisfy its burden of proving misconduct. While the employer may have had good cause for discharging Ms. Allen, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons cited herein, benefits are allowed.

**DECISION:**

The representative's decision dated March 29, 2010, reference 02, is hereby affirmed. Ms. Allen was discharged but disqualifying 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/css