

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANGELA K SCHOLTING**

Claimant

**APPEAL NO: 10A-UI-07195-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**

Employer

**OC: 09/06/09**

**Claimant: Appellant (2)**

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 May 6, 2010, reference 02, that held she voluntarily quit without good cause on April 7, 2010, and benefits are denied. A telephone hearing was held on July 6, 2010. The claimant participated. Scott McKinsey, Unemployment Specialist, participated for the employer. Employer Exhibits One through Four was received as evidence.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began employment on assignment at Con Agra as a full-time food production worker on November 29, 2009, and last worked for the employer on April 7, 2010. After reporting to work on April 7, claimant experienced a menstrual period issue that caused her to leave work prior to the end of her shift. Claimant could not locate an immediate supervisor, so she went to the office about 9:30 p.m., and told what she believed was a supervisor why she was leaving. Later that evening, about 10:00 p.m., she called supervisor Lou Ann King, and left a message why she left work.

When the claimant came to work the next day to get her paycheck, King told her she was terminated for leaving work without permission. The employer protested the separation as a voluntary quit.

**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 the employer has failed to establish claimant was discharged for misconduct in connection with employment on April 7, 2010, for leaving work without permission.

The claimant made a good faith effort to seek permission to leave work early due to an immediate problem, and she provided notice to whom she thought was a supervisor as to why she was leaving. The claimant did not abandon her job or voluntarily quit, and the employer has failed to establish it was for any act of misconduct.

**DECISION:**

The department decision dated May 6, 2010, reference 02, is reversed. The claimant was not discharged for misconduct on April 7, 2010. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/css