

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ZORAIDA S GUZMAN
Claimant

APPEAL NO. 10A-UI-05801-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

**Original Claim: 03-21-10
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 12, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 9, 2010. The claimant did participate through the interpretation of Celia Huante. The employer did participate through Monica Dyar, Human Resources Supervisor. Employer's Exhibit One was entered and received into the record.

ISSUE:

Was the claimant discharged due to job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a molder, full-time, beginning March 28, 2005, through March 18, 2010, when she was discharged.

The claimant refused to perform work as instructed when told by her supervisor on March 15, 2010. The claimant was instructed to work on a particular line, the dry sausage line, and she told the team leader, Rosa, that she would not work in that area and to get someone else. The claimant told Rosa that if she was going to be assigned to work on the dry sausage line, she was going to go home. The claimant continued to work the rest of her shift, but performed poor work because she was upset about having to work on the dry sausage line. The claimant was suspended in October 2009 for failure to perform her assigned work and for insubordination. The claimant was not allowed to pick and chose which line she would or would not work. The employer slowed the line down to accommodate the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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 Iowa Court of Appeals found substantial evidence of misconduct in testimony that the claimant worked slower than he was capable of working and would temporarily and briefly improve following oral reprimands. *Sellers v. EAB*, 531 N.W.2d 645 (Iowa App. 1995). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

The question of whether the refusal to perform a specific task constitutes misconduct must be determined by evaluating both the reasonableness of the employer's request in light of all the circumstances and the employee's reason for noncompliance. *Endicott v. IDJS*, 367 N.W.2d 300 (Iowa App. 1985). The claimant refused to work on a line she was assigned to work on by her team leader. It was not up to the claimant to decide which lines she wanted to work on or not. The claimant was not allowed to pick and chose which line she wanted to work on. The employer slowed the line down so the claimant could keep up. Even if the line did not slow down, the claimant had no right to refuse to perform her assigned tasks. The claimant had been previously suspended for failure to follow instructions in her job and knew or should have known that her failure to follow instructions could lead to her discharge.

Claimant's repeated failure to follow reasonable instructions and to accurately perform her job duties after having been warned is evidence of insubordination and carelessness to such a degree of recurrence as to rise to the level of disqualifying job-related misconduct. Benefits are denied.

DECISION:

The April 12, 2010 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw