

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MEGAN CASCONI
Claimant

INTERSTATE POWER & LIGHT COMPANY
Employer

APPEAL 20A-UI-05090-HP-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/22/20
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Claimant Megan Casconi filed an appeal from a May 22, 2020 (reference 03) unemployment insurance decision that denied benefits based upon her discharge from employment. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for June 25, 2020 at 11:00 a.m. Casconi appeared and testified. No one appeared on behalf the employer, Interstate Power & Light Company ("Interstate"). I took administrative notice of Casconi's unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUES:

Was the Claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Casconi commenced her employment with Interstate on or about January 29, 2018. Casconi started as a temporary employee in Interstate's Call Center. Interstate hired Casconi as a full-time employee and she moved out of the Call Center. Casconi worked as a real estate right-of-way agent for Interstate. She worked with windfarms, keeping track of spreadsheets for any wind farm damages, crop damages, and annual payments, organized the files, and filed the real estate documents.

Leila Hussain was Casconi's immediate supervisor. On Monday, February 3, 2020, Hussain asked Casconi to come to a conference room with her cellular telephone and a notepad. When Casconi arrived, Hussain and Heather Dee were in the conference room. Dee is also a supervisor and supervised Casconi until her employees were divided into two sections and half were transferred to Hussain. Human resources was also on the telephone.

During the meeting Hussain accused Casconi of not being at work when she had reported she had been at work on her time sheet. Casconi was able to prove she was working on all of the days except for December 23, 2019. Casconi reported she had taken vacation that day. When she worked in the Call Center, Casconi had asked to take a vacation day on December 23, 2019, which was approved. When she transferred, Casconi assumed her vacation approval had also

been transferred. No one told her she needed to resubmit her vacation requests. Hussain approves Casconi's payroll for each pay period. Hussain did not ask Casconi about the payroll discrepancy until the meeting on February 3, 2020.

When confronted about the December 23, 2019 payroll discrepancy, Casconi reported it must have been a mistake. She offered to have Interstate take a day of vacation from her or to make up the time. Hussain declined to accept either option and placed Casconi on administrative leave.

On March 4, 2020, Hussain called Casconi and told her she had been terminated for violation of the code of conduct. Casconi denied she intentionally misrepresented her time on her timesheet. Casconi reported the first time she learned about the problem was during the March 3, 2020 meeting. Hussain met with Casconi on a weekly basis and never mentioned any problems with her time reporting.

REASONING AND CONCLUSIONS OF LAW:

Under Iowa Code section 96.5(2)a,

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits: . . .

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 disqualification shall continue 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 Iowa Administrative Code 24.32(1)a, defines the term "misconduct" 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the Iowa Legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 558 (Iowa 1979).

871 Iowa Administrative Code 24.32(4) also provides,

Report required. The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence

to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

And 871 Iowa Administrative Code 24.32(8) provides:

Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

Unemployment statutes should be interpreted liberally to achieve the legislative goal of minimizing the burden of involuntary unemployment. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6, 10 (Iowa 1982). The employer bears the burden of proving the employee engaged in disqualifying misconduct. *Id.* at 11. The issue is not whether the employer made a correct decision in separating the claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262, 264 (Iowa Ct. App. 1984)

Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits; such misconduct must be "substantial." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806, 808 (Iowa Ct. App. 1984) The definition of misconduct in the administrative rule focuses on deliberate, intentional, or culpable acts by the employee. *Id.* When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* at 808-09. Negligence does not constitute misconduct unless it is recurrent in nature; a single act is not disqualifying unless it is indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731, 735 (Iowa Ct. App. 1986) Additionally, poor work performance is not misconduct in the absence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211, 213 (Iowa Ct. App. 1988). The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 666-69 (Iowa 2000) What constitutes misconduct justifying termination of an employee and what misconduct warrants a denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679, 680 (Iowa Ct. App. 1988) Instances of poor judgment are not misconduct. *Richers v. Iowa Dep't of Job Serv.*, 479 N.W.2d 308, 312 (Iowa 1991); *Kelly v. Iowa Dep't of Job Serv.*, 386 N.W.2d 552, 555 (Iowa Ct. App. 1986)

Interstate did not appear at hearing to explain its decision to terminate Casconi. I find Casconi engaged in an instance of poor judgment when she failed to correctly report her vacation on her timesheet, which is not misconduct. There was no evidence presented at hearing Interstate spoke to her from December 23, 2019 until February 3, 2020, concerning the discrepancy. There was no evidence presented Interstate had previously warned Casconi about problems with her time reporting. Benefits are allowed.

DECISION:

The May 22, 2020 (reference 03) unemployment insurance decision denying unemployment insurance benefits is reversed in favor of the claimant/appellant. The employer has not established the claimant was discharged for misconduct for a disqualifying reason. Benefits are allowed provided the claimant is otherwise eligible.



Heather L. Palmer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

July 6, 2020
Decision Dated and Mailed

hlp/scn