

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATASHA L THOMAS

Claimant

APPEAL NO: 14A-UI-13263-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REM IOWA COMMUNITY SERVICES INC

Employer

OC: 11/30/14

Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 19, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the January 21, 2015 hearing. The employer did not respond to the hearing notice or participate at the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in September 2012. She worked full time as the program coordinator.

The claimant's job was stressful and she thought about reducing her hours so she would work part time instead of full time. Although the claimant did not talk to the employer about reducing her hours, she applied for benefits through the Department of Human Services. She drafted the letter and it was mailed. The letter did not indicate she worked full time. Instead, the claimant wrote the letter as if she was working reduced hours.

After the letter was mailed, the claimant decided she would not ask the employer for reduced hours. The employer learned the claimant had sent the Department of Human Services a letter indicating she was not working full time hours. Shortly before December 4, the claimant contacted the Department of Human Service to update her status to reflect she worked full time. On December 4, the employer talked to the claimant about this letter. The claimant admitted she wrote letter. At that time the employer was concerned about whether the claimant's sister knew anything about the claimant's letter. The employer verified the claimant's sister knew nothing about the letter. On December 5, the employer discharged the claimant for committing fraud.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's testimony is undisputed in this case. The claimant used poor judgment when she sent a letter to the Department of Human Services representing she worked less than full-time hours when she was working full time. Even though the claimant thought about reducing her hours, she did not know if the employer would allow her to do this. The claimant's assertion that she contacted the Department of Human Services prior to December 4 to update her status and correct the fact she was working full time while questionable is not disputed by the evidence.

The employer may have had justifiable business reasons for discharging the claimant. The evidence does not establish that the claimant intentionally or substantially disregarded the employer's interests. The evidence does not establish that the claimant committed work-connected misconduct. As of November 30, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's December 19, 2014 determination (dereference 01) is reversed. The employer discharged the claimant but did not establish that she committed work-connected misconduct. As of November 30, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs