

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AKIR A MALOUK**  
Claimant

**APPEAL NO: 14A-UI-03491-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TPI IOWA LLC**  
Employer

**OC: 02/09/14**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge  
Iowa Admin. Code r. 871-26.14(7)b & c – Request to Reopen Hearing

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's March 5, 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. Neither party responded to the hearing notice or participated at the hearing.

The claimant called the Appeals Bureau at 4:00 p.m. for a 10:30 a.m. hearing. She requested that the hearing be reopened. Based on the administrative record, and the law, the administrative law judge denies the claimant's request to reopen the hearing and finds she is not qualified to receive benefits.

**ISSUES:**

Should the claimant's request to reopen the hearing be granted or denied?

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. On February 6, 2014, the claimant and a new employee engaged in a verbal confrontation by yelling profanities at each other. The supervisor told them both to stop arguing and they could do this again.

About two hours after the first incident, the claimant and the co-workers again started yelling profanities at each other. The employer then called both employees to the office and discharged both of them for failing to follow the supervisor's direction about not getting into verbal confrontations at work.

A hearing notice was mailed to the parties on April 4, 2014. The claimant received the hearing notice shortly after it was mailed. The claimant did not understand everything on the hearing notice, but had her children explain the hearing notice instructions to her. The claimant did not

follow the hearing notice instructions and did not call the Appeals Bureau before the scheduled hearing to provide the phone number she could be contacted at.

The claimant waited for the administrative law judge to call her at 10:30 a.m. The claimant was not called because she had not provided her phone number for the hearing. The first time the claimant called the Appeals Bureau was at 4:00 p.m. on April 22, 2014. The claimant requested that the hearing be reopened.

#### **REASONING AND CONCLUSIONS OF LAW:**

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. Iowa Admin. Code r. 871-26.14(7)(b) and (c).

The claimant did not establish good cause to reopen the hearing. She received the hearing notice in early April. Since she failed to provide her phone number as the hearing instructions told her to do, her request to reopen the hearing must be denied.

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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. Iowa Admin. Code r. 871-24.32(1)(a).

The claimant's failure to follow a supervisor's instruction that she could not again engage in a verbal confrontation with a co-worker two hours after the supervisor gave this direction amounts to work-connected misconduct. As of February 9, 2014, the claimant is not qualified to receive benefits.

**DECISION:**

The claimant's request to reopen the hearing is denied. The representative's March 5, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. As of February 9, 2014, the claimant is disqualified from receiving unemployment insurance benefits until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/css