

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

TRACEY D ADOLPHI  
620 PARK AVE  
CHARITON IA 50049

GREAT WESTERN BANK  
201 N MAIN  
CHARITON IA 50049

Appeal Number: 04A-UI-08624-DWT  
OC: 07/18/04 R: 01  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Tracey D. Adolphi (claimant) appealed a representative's August 6, 2004 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Great Western Bank (employer) would not be charged because the claimant had voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 31, 2004. The claimant participated in the hearing. Robin Thompson, the claimant's mother, was available to testify on the claimant's behalf. Keith Cueno and Laurie Moore testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in August 2000. The employer hired the claimant to work part time at the Russell location as a customer service representative. The claimant worked 10 to 16 hours a week. Although the claimant lives in Chariton, which is seven miles from Russell, the claimant's mother lives in Russell and provides the claimant with free childcare. The claimant enrolled her son in the Russell school district.

The claimant's supervisor did not usually work at the Russell location. In July 2004, the employer made a business decision that the claimant would work in the Chariton office and her supervisor, who was a manager, would transfer to the Russell location.

On July 12, the employer told the claimant she could either work at the Chariton office or she would not have a job. When the employer decided to transfer the claimant, the employer did not realize the claimant's childcare provider lived in Russell or that the claimant had enrolled her son in the Russell school district. When the claimant asked the employer if she would receive a raise or any extra compensation for driving to Russell for school and her childcare provider, the employer indicated this was not a possibility. Although the claimant told the employer on July 12 that she did not believe this arrangement would work because of the personal hardship it created for her, she asked for time to think about the employer's offer. The claimant wanted until the end of the week to think about this option. The employer agreed to this arrangement.

On July 13, the claimant's last scheduled day at the Russell location, the claimant told customers they would not see her anymore in Russell because her manager was going to work in Russell and the employer wanted to transfer the claimant to Chariton. The claimant may have mentioned to another part-time employee that Cueno talked about other cost-savings measures if the workload in Russell merited such a decision. Cueno gave an example to illustrate his point in his July 12 conversation with the claimant. The claimant may have mentioned Cueno's example to a relative but told at least one co-worker.

On July 15, the Corydon manager told Cueno he heard about the claimant leaving Russell and asked if the Russell bank was closing on Wednesdays. This information in addition to Cueno learning about a petition being circulated to keep the claimant at the Russell location and the bank open on Wednesdays led the employer to believe the claimant was not a team player. When the claimant and Cueno talked on the phone on Thursday afternoon, the claimant understood they would be talking about when they would meet to discuss her decision about her continued employment. The claimant wanted to ask a second time if the employer would reconsider giving her some additional compensation to work in Chariton. The claimant would not work at the Chariton office if she did not receive additional compensation. The employer, however, already knew the claimant would not transfer to the Chariton location because the employer would not give her any additional compensation. The employer also concluded the claimant had something to do with the petition that was being circulated in Russell, which meant she was not a team player and violated the employer's policy concerning confidentiality. As a result of these conclusions, the employer did not want the claimant working at either branch. The claimant did not work after July 13 because she understood the employer would not let her

work at either location and the employer understood she quit because she would not work at the Chariton location. The employer did not hire anyone to replace the claimant at either location.

#### REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. Regardless of whether the claimant quit or was discharged, the result is the same.

The facts establish the claimant decided she would not work in Chariton if the employer did not pay her more money. The employer told the claimant on July 12 she would not receive extra compensation and the employer would not pay the claimant any more money no matter how many times she asked the employer to reconsider. The claimant knew on July 15 when she talked to Cueno she would not accept a transfer to Chariton. The claimant voluntarily quit her employment when she declined to transfer to the Chariton office. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant quits with good cause when she leaves employment rather than accept a transfer to another locality that would have caused considerable personal hardship. 871 IAC 24.26(20). The claimant's childcare provider and her son's school were in Russell. To transfer to the Chariton location after she had been hired to work at the Russell location and worked in Russell for four years would result in personal hardship for the claimant. Therefore, even though the claimant quit, she quit for reasons that qualify her to receive unemployment insurance benefits.

On the other hand, if this employment separation is considered a discharge, 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer discharged the claimant and would not allow her to work at either location because citizens in Russell started a petition to keep the claimant at the Russell bank and no longer considered her a team player. The claimant, however, had no control over a petition circulating to keep her at the bank. Even if the claimant told a relative about Cueno's example of closing the bank, this isolated statement does not amount to work-connected misconduct.

The employer discharged the claimant for compelling business reasons. The claimant did not commit an act of work-connected misconduct. As of July 18, 2004, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 6, 2004 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits. In the alternative, the employer discharged the claimant for business reasons that do not constitute work-connected misconduct. Under either scenario, as of July 18, 2004, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/tjc