

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BEVERLY J PETERSON
Claimant

APPEAL NO. 07A-UI-08965-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN GAMES INC
Employer

**OC: 08/19/07 R: 01
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

American Games, Inc. filed an appeal from a representative's decision dated September 13, 2007, reference 01, which held that no disqualification would be imposed regarding Beverly Peterson's separation from employment. After due notice was issued, a hearing was held by telephone on October 17, 2007. Ms. Peterson participated personally. The employer participated by Kari Hockemeier, Human Resources Manager, and Thomas Adams, Production Manager. The employer was represented by Alyce Smolsky of TALX Corporation.

ISSUE:

At issue in this matter is whether Ms. Peterson was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Peterson began working for American Games, Inc. on September 11, 2005. She was employed full time as a production worker. On or about May 19, 2007, the employer instituted a policy that prohibited certain items of jewelry. On or about June 10, the production manager met with Ms. Peterson because she was wearing three rings. She was told she could not wear the rings because it violated the jewelry policy.

Ms. Peterson removed all of her rings with the exception of her wedding band. On August 14, the production manager again warned her that she was in violation of the jewelry policy because she was still wearing her wedding band. She explained that she could not remove the ring because her fingers were swollen. He suggested she contact a jeweler to have the ring removed. Ms. Peterson did go to a jeweler but the jeweler was unable to remove the ring. The jeweler indicated that, if the ring was cut off, it would have to be soldered back together but that the solder might not hold.

When Ms. Peterson returned to work still wearing the ring on August 19, she was sent home. On August 20, she was discharged because she was still wearing the ring. She has not removed her wedding band in the 19 years she has been married. She did not want to cut and

damage the ring because it cost her husband \$2,000.00. Her failure to remove her wedding band was the sole reason for Ms. Peterson's separation from American Games, Inc.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Peterson was discharged because she failed to remove her wedding band in order to comply with the employer's jewelry policy. The failure or refusal to obey a reasonable directive is not misconduct if the failure or refusal is in good faith or for good cause. Woods v. Iowa Department of Job Service, 327 N.W.2d 768 (Iowa App 1982). Ms. Peterson did not remove her wedding band as instructed by the employer because it could not be removed due to the swelling of her fingers. This constituted good cause for the failure to remove the ring.

In order to be compliant with the employer's policy, Ms. Peterson would have had to have the wedding band cut off. She had no assurance that it could be restored to its original condition once it was cut off. She has worn the band for 19 years. Given the ring's sentimental and monetary value, her refusal to have it cut off was reasonable. Under the circumstances presented, the administrative law judge concludes that Ms. Peterson did not deliberately and intentionally act in a manner she knew to be contrary to the employer's standards. Her actions did not evince a willful or wanton disregard for the employer's interests. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons cited herein, benefits are allowed.

DECISION:

The representative's decision dated September 13, 2007, reference 01, is hereby affirmed. Ms. Peterson was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css