

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOELLE R DICKERSON
Claimant

APPEAL NO. 07A-UI-10442-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SYSTEMS UNLIMITED INC
Employer

**OC: 10/07/07 R: 03
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Systems Unlimited, Inc. (employer) appealed a representative's November 2, 2007 decision (reference 01) that concluded Joelle R. Dickerson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 29, 2007. The claimant participated in the hearing. Maddie Cafferty, the director of support services, appeared 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 employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 16, 1994. The claimant worked as a full-time coordinator. Chris Campbell supervised the claimant. The claimant supervised employees who wrote quarterly and assessment reports. The claimant was responsible for making sure these reports were completed and filed, but the employees she supervised wrote reports.

The goal of the claimant and her employees was to complete 100 percent of the employer's required paperwork. The employer understood there is a great deal of paperwork to be completed and all coordinators were constantly trying to get all the paperwork completed.

On August 24, 2007, a case worker in Johnson County reported that she did not have ten quarterly reports. This was the first time Campbell received information about missing reports. After Campbell received this information, she talked to the claimant. The claimant did not know these reports were missing prior to August 24. The claimant told Campbell the reports had been completed or were in the process of being completed. The claimant contacted the

employees she supervised and gave them until the end of September to complete any of these reported missing quarterly reports.

Campbell looked through the employer's data base and found five of the missing reports, but discovered ten more reports that were missing. The employer concluded there were 15 reports that were missing or had not been filed. Even though Campbell could not find some of the reports on the employer's database, some of the employees the claimant supervised completed the reports on their personal home computers. As of September 24, the claimant made a paper copy of the reports she had been told were missing and personally handed them to a Johnson County case worker. As of September 24, the claimant believed all the previously reported reports had been completed and filed.

On October 9, the employer still believed the claimant had 15 missing reports and the employer could not find them. Since the employer understood the claimant kept telling the employer that the reports were completed and filed, the employer called the claimant to a meeting and asked her to justify her position. The employer did not know about the reports the claimant personally delivered to the Johnson County employee on September 24. The claimant had no idea there was still a problem with any missing reports until October 9. On October 9, the employer asked about a March assessment report. The claimant indicated it was on her desk. Campbell, however, responded that she had already looked on the claimant's desk and the report was not there. The claimant did not understand that the employer wanted her to get the report to show the employer it had been completed. When the claimant left the meeting, she was frustrated because she assumed the employer was going to give her a write up, which would be her first written warning.

On October 10, 2007, the employer discharged the claimant because the employer concluded the claimant misrepresented the status of the missing reports to Campbell. When the claimant met with Campbell between August 24 and October, she attempted to communicate that she wanted to get 100 percent of the paperwork done, but was not at that point. The claimant had frequent one-on-one discussions with Campbell, but she never received a deadline in which to have certain reports completed. The claimant believed Campbell understood the situation. The employer discharged the claimant because the employer concluded the claimant had misled Campbell about the status of reports since August 24, 2007.

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).

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 claimant's testimony as to what conversation she had with Campbell between August 24 and October 9 must be given more weight than the employer's reliance on unsupported hearsay information or reports from Campbell when Campbell did not participate in the hearing. While the claimant and Campbell may not have communicated clearly with one another, the facts do not establish that the claimant intentionally misled the employer or intentionally gave inaccurate information about the status of the missing reports. As soon as the claimant knew there were missing reports, she contacted her employees and hand-delivered reports to a Johnson County employee on September 24. On October 9, if the employer had asked the claimant to show Campbell an assessment report that was still missing, she may have been able to find it.

The facts do not establish that the claimant committed work-connected misconduct. The way in which the claimant supervised employees or made sure reports were timely submitted may not have been satisfactory, but the claimant did not commit work-connected misconduct. Therefore, as of October 7, 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's November 2, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of October 7, 2007, 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw