

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

VANESSA WHITE
Claimant

TPI IOWA LLC
Employer

APPEAL NO. 14A-UI-02685-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/02/14
Claimant: Appellant (2)

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Vanessa White (claimant) appealed an unemployment insurance decision dated February 28, 2014, (reference 01), which held that she was not eligible for unemployment insurance benefits because she was discharged from TPI Iowa, LLC (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 22, 2014. The claimant participated in the hearing with former employees Bobby Miller and Jonathon Faber. The employer participated through Tahler Johnston, Human Resources Generalist.

ISSUE:

The issue is whether the claimant was discharged for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a full-time manufacturing associate at Trailing Edge from October 23, 2013, through February 6, 2014, when she was discharged for policy violations. The employer manufactures blades for wind turbines and employees work close together for long hours. The employer has zero tolerance for violence in the work place and the employer discharges employees when they are made aware of serious altercations.

The claimant and co-worker Bobby Miller were in a heated argument on January 24, 2014, and both received a verbal warning from their supervisor, who advised them further disciplinary action would result if there were any other issues. About a week later on February 6, 2014, the claimant was discharged after she was in a screaming fight with co-worker Akir. The claimant complained that Akir still does not know her job, she causes repair work and she writes numbers incorrectly on orders.

The claimant and her former co-workers testified that they were aware of the zero tolerance policy but claimed that it was not evenly enforced. The claimant testified that the incident on February 6, 2014, was not a screaming fight, it was a "loud altercation" but then she added that,

"It was not even loud, it was just a disagreement." Bobby Miller worked on February 6, 2014, and said he did not hear any loud voices at the time.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Misconduct is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged for violating policy after she had a screaming fight with a co-worker on the work floor on February 6, 2014. She denies that it was a screaming fight and the employer did not offer any first hand witnesses to rebut the claimant's statement. Hearsay testimony is admissible in hearings of this nature. Iowa Code § 17A.14(1) (2011). However, the hearsay evidence provided by the employer is not more persuasive than the claimant's denial of such conduct. The employer has not carried its burden of proof to establish work-related misconduct. Benefits are therefore allowed.

DECISION:

The unemployment insurance decision dated February 28, 2014, (reference 01), is reversed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs