

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JORDAN WILLIAMS**  
Claimant

**APPEAL NO: 14A-UI-01751-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PILOT TRAVEL CENTERS LLC**  
Employer

**OC: 01/12/14**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 5, 2014, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 2, 2014. The claimant participated in the hearing. Cynthia Estock, Restaurant General Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time restaurant cashier for Pilot Travel Centers from August 16, 2012 to December 11, 2013. The claimant was late in arriving to work December 11, 2013, and came in wearing yoga pants with a fold-over pink waist band. The employer had told her not to wear those pants previously because employees are required to wear solid black pants made of twill or denim. General Manager Cynthia Estock saw the claimant and told shift/night manager Debbie, "I'm done. She's done. Tell her to go home." Ms. Estock testified she told the claimant personally, "Jordan, I'm done. You are in the wrong pants again. Go home." The claimant believed that meant her employment was terminated as she had never been sent home before. The following day the claimant tried to call the restaurant but the phone was busy so she sent a text message to Ms. Estock asking, "Do I come into work today?" and did not receive a response. Consequently, the claimant was sure she was discharged from her employment. The employer maintains the claimant voluntarily quit by failing to call or show up for work December 12, 13 and 14, 2013.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

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. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The first issue is whether the claimant voluntarily quit or whether her employment was terminated. The administrative law judge concludes she was discharged by the employer. While the employer may not have intended to terminate the claimant's employment, the fact that she said, at least, "Jordan, I'm done," and sent her home when she had never sent the claimant home for wearing those pants before led the claimant to reasonably conclude the employer was terminating her employment. In considering the employer's words and actions from the claimant's perspective it could easily lead to the conclusion that the employer was ending her employment. Additionally, the claimant texted Ms. Estock to ask if she was supposed to come in December 12, 2013, but did not receive a response, adding to the claimant's belief her employment was terminated. Under the "reasonable person" standard, the claimant was not acting illogically or irrationally in determining her employment was terminated. The remaining question is whether the claimant was discharged for disqualifying job misconduct.

The employer has the burden of proving disqualifying misconduct. 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 substantial and 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). While the employer had talked to the claimant about wearing yoga pants with the pink waistband in the past, the claimant had not received any warnings about dress code violations and did not know her job was in jeopardy for that reason. The claimant used poor judgment in choosing to wear the yoga pants when she was running late and did not have any other clean clothes December 11, 2013, but her actions, given the lack of warnings, do not rise to the level of disqualifying misconduct as that term is defined by Iowa law. Therefore, benefits are allowed.

**DECISION:**

The February 5, 2014, reference 01, decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

---

Julie Elder  
Administrative Law Judge

---

Decision Dated and Mailed

je/pjs