

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER L KEITH
Claimant

APPEAL NO: 14A-UI-06655-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DISCOVERY LIVING INC
Employer

OC: 06/08/14
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's June 24, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated at the August 14 hearing with her attorney, Darin Luneckas. Debra Berg, the director, Casey Wells, and Carol Saddoris appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 13, 2010. The claimant worked full time as the associate coordinator helping her supervisor, Carol Saddoris.

The claimant returned to work for a day or so after she had been on FMLA, but again requested and was granted FMLA. The last day the claimant worked was January 22, 2014. The employer expected the claimant to return to work the first week in March 2014. The claimant exhausted her FMLA leave on March 2, 2014.

The claimant's physician did not release her to return work by early March. The employer knew the claimant was unable to work in early March and even though the claimant had exhausted her FMLA, the employer granted her additional leave until March 24, 2014. In a February 27, 2014 letter, the employer asked the claimant to contact the employer if she was unable to return to work by March 25, 2014.

In a late March 2014 letter, the employer informed the claimant she no longer had a job with the employer. This was based the claimant's physician March 10, 2014 statement that the claimant was unable to return to work on March 25 and it was not known when the claimant could return to work. The employer ended the claimant's employment as of March 25, 2014.

The claimant established a claim for benefits during the week of June 8, 2014. She has been approved for Department Approved Training. A June 30, 2014 determination (reference 05) held she was available for and medically able to work. No one appealed the June 30 determination.

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established business reasons for ending the claimant's employment. As of March 25, 2014, the claimant had not been released to work and she had exhausted all medical leave under the Family Medical Leave Act. Even though the employer had justifiable reasons for ending the claimant's employment, she did not commit work-connected misconduct. Instead, the claimant was unable to work and her physician had not released her to work until June 9, 2014. As of June 8, 2014, the claimant is qualified to receive benefits and is able to and available for work. Since the claimant was approved for Department Approved Training, the employer's account will not be charged for benefits during weeks the claimant attends Department Approved Training classes.

DECISION:

The representatives' June 24, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of June 8, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge, but during weeks the claimant attends classes that she has received Department Approved Training to attend, the employer's account will not be charged during these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css