

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BETTY A CHANEY
Claimant

APPEAL NO. 07A-UI-04346-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOSAIC
Employer

OC: 04/01/07 R: 03
Claimant: Respondent (2)

Section 96.5(2)a – Discharge
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Mosaic, filed an appeal from a decision dated April 18, 2007, reference 01. The decision allowed benefits to the claimant, Betty Chaney. After due notice was issued a hearing was held by telephone conference call on May 15, 2007. The claimant participated on her own behalf. The employer participated by Executive Director Stephanie Gehlhaar, Finance Director Julie Zittergruen, and Habilitation Director Rhonda Wilcox, and was represented by TALX in the person of Lynn Corbeil. Exhibits One, Two, Three, Four, Five, Six, and Seven were admitted into the record.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Betty Chaney was employed by Mosaic from November 29, 2005 until April 3, 2007, as the full-time business manager. She had a background in accounting, and at the time of hire she received training on how the employer's accounting system worked. Throughout the course of her employment, she also received additional training when new systems were put in place and was provided with more training whenever she requested it. The employer also provided all the Iowa business managers with special training outlines to specify how the Iowa facilities accounting differed from the national guidelines. The claimant even prepared her own documents to assist her in performing these tasks.

Ms. Chaney received corrective action and written warnings starting in December 2006, for her failure to follow policies and procedures. The final one was given March 2, 2007, with many expectations and "bullet points" that specified the problems and what needed to be done to correct them. It was reviewed on March 29, 2007, and some small improvement was seen, but much improvement was needed.

The employer's concern was that on some occasions the claimant would successfully complete some of the tasks and the next time, she would not. In 2006 she completed the budget and followed the procedures, but in April 2007 it was discovered that the new budget had not been correctly done, resulting in a shortfall in excess of \$400,000.00. This could have been avoided if Ms. Chaney had properly run the computer program, which would have automatically discovered the discrepancy.

The budget shortfall was discovered by the employer on April 2, 2007, when the budget was reviewed by the claimant and Executive Director Stephanie Gehlhaar. When questioned by the employer, Ms. Chaney simply said she did not run the budget through the required procedures and computer program. She was sent home and the next day the employer discharged her for failure to perform her job duties.

Betty Chaney has received unemployment benefits since filing a claim with an effective date of April 1, 2007.

REASONING AND CONCLUSIONS OF LAW:

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 claimant had been advised her job was in jeopardy as a result of her failure to follow policies and procedures. She was capable of doing her job, as she successfully completed the required tasks from time to time. Additional training was never denied her and the finance

director and executive director were always available to answer questions. In spite of this, the claimant failed to consistently follow the required policies and procedures. The final incident was the claimant's failure to run the budget through the necessary computer program, resulting in a \$400,000.00 shortfall in the budget which was not detected. This is the same procedure she had followed the year before but neglected to do it the next time. The record establishes the claimant was capable of doing her work, had the necessary training and support, but did not perform her job duties to the best of her ability at all times. This is conduct not in the best interests of the employer and the claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of April 18, 2007, reference 01, is reversed. Betty Chaney is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. She is overpaid in the amount of \$1,336.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw