

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARA E HUFFMAN
Claimant

APPEAL NO. 13A-UI-05956-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

INSIGHT PARTNERSHIP GROUP LLC
Employer

OC: 04/14/13
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated May 6, 2013, reference 01, which denied unemployment insurance benefits. After due notice was provided, a hearing was held in Burlington, Iowa, on July 24, 2013. Claimant participated. Although duly notified, there was no participation by or on behalf of the employer.

ISSUE:

The issue in this matter is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Sara Huffman was employed by Insight Partnership Group, LLC as a part-time life skills specialist from April 2012 until April 27, 2013 when she was discharged from employment. Ms. Huffman worked an average of 38 hours per week and was paid by the hour. Her immediate supervisor was Ms. Jody Brown.

Ms. Huffman was discharged from her employment with the captioned employer after another employee made an accusation that Ms. Huffman was violating company policy by looking at other employees' pay stubs on or about April 8, 2013. Although Ms. Huffman denied violating company policy by accessing confidential payroll information, she was nonetheless discharged from employment.

It is Ms. Huffman's position that she did not violate the company policy by accessing confidential payroll information and the incident described by other workers to the employer was fabricated by other workers.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does not.

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 employer has the burden of proof in this matter. See Iowa Code section 96.6-2. Misconduct must be substantial in order to justify a denial of unemployment benefits. Misconduct serious enough to warrant the discharge of an employee may not necessarily be serious enough to warrant a denial of unemployment benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in a disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. See 871 IAC 24.32(4). When it is in a party's power to produce more direct and satisfactory evidence than is actually produced, it may fairly be inferred that the more direct evidence will expose deficiencies in that party's case. See Crosser v. Iowa Dept. of Public Safety, 240 N.W.2d 682 (Iowa 1976).

In this matter the claimant appeared personally and testified under oath denying violating company policy by accessing confidential payroll information. Although questioned by the administrative law judge the claimant maintained that the allegations against her were false and that she did not violate the company policy. There being no evidence of equal weight to the contrary, the administrative law judge concludes that the employer has not sustained its burden of proof in establishing disqualifying job misconduct. Benefits are allowed providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated May 6, 2013, reference 01, is reversed. The claimant was discharged under non-disqualifying conditions. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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