

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

IRMA LAGUNAS

Claimant

APPEAL NO. 13A-UI-13738-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC

Employer

OC: 11/17/13

Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated December 6, 2013, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on January 8, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of interpreter, Rafael Gerinomo. Monica Dyar participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time on the box line from July 12, 2010, to November 13, 2013. The claimant was informed and understood that under the employer's work rules, having forceful physical contact with an employee was grounds for discharge. On September 23, 2013, the claimant received a counseling after she and another employee engaged in a tug of war match over a fatigue mat that each wanted for their own work area.

On November 10, 2013, when the claimant reported to her line, she noticed that an employee was stationed in the claimant's normal spot on the line. She believed the employee should have taken the spot on the other side of the line because that is where the person she was replacing normally was stationed. She asked the team lead about this but the team lead told her to go to the open spot on the other side of the line. The claimant instead approached the employee and asked her to move. When the employee would not move, the claimant grabbed the employee by the arm and shoulder to physically move her out the spot. The employee would not move so the claimant became upset and left the line crying. She later returned and worked in the open spot. Employees are not assigned places on the line permanently and can be moved around.

The employer discharged the claimant on November 13, 2013, for having improper physical contact with another employee.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's conduct in physically grabbing a coworker to get her to move was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated December 6, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css