

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 education director and director of the Cedar Rapids Symphony School for the Cedar Rapids Symphony Orchestra from July 1, 2001 to July 1, 2005. On May 31, 2005, Board Member Steve West told the claimant there was a board meeting about the budget. On June 1, 2005, Mr. West told the claimant that Executive Director Jason Wright indicated during the meeting that he wanted to terminate the claimant's employment and a current and past board member supported Mr. Wright's position. Mr. Wright and the other current and former board members asked Mr. West to inform the claimant it would be in her best interest professionally to resign rather than have them bring out potential performance issues. The claimant believed Mr. Wright was attempting to force out the long-term employees so he could hire new employees at cheaper wages. On June 2, 2005, Mr. Wright told the claimant he understood she would write a letter of resignation and he would write a letter approving her resignation (Claimant's Exhibit A). On June 6, 2005, the claimant brought her letter of resignation to Mr. Wright but prior to giving him the letter she asked if he intended to terminate her employment if she did not submit her resignation letter and he said, "Yes," and the claimant gave him her resignation letter (Claimant's Exhibit B). The claimant's last day of work was July 1, 2005, but the employer agreed to pay her through August 30, 2005.

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.

871 IAC 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The employer has the burden of proving disqualifying job 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 willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). After speaking to Mr. West, the claimant understood that if she did not voluntarily submit her resignation her employment would be terminated. That conclusion was reinforced when she spoke to Mr. Wright June 2, 2005, and he stated he understood the claimant would be submitting a letter of resignation and was further reinforced when the claimant asked Mr. Wright June 6, 2005, if it was his intention to terminate her employment if she did not resign and he stated it was. Therefore, under Iowa law, the situation is considered to be a discharge rather than a quit. Because the employer has not provided any evidence of misconduct on the part of the claimant, the administrative law judge must conclude she was discharged for no disqualifying reason and benefits must be allowed.

DECISION:

The September 2, 2005, reference 01, decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

je/kjf