

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERRY L MERRITT
Claimant

APPEAL NO: 11A-UI-01313-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD SAMARITAN SOCIETY INC
Employer

OC: 01/02/11
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 28, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing with her witness, Stephanie Jones, her daughter. Sue Meridan the director, Rhonda Watson and Cheryl Williams appeared on the employer's behalf. During the hearing, Employer Exhibits One and Two were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in May 2010. The claimant was hired to work as a CNA. She started working as the volunteer coordinator a few months later. During her employment, Meridan talked to the claimant about recruiting more volunteers. The employer was not satisfied with the number of volunteers the claimant recruited. Even though the claimant understood the employer was not satisfied with her work performance, the claimant worked to the best of her ability. The employer did not tell her that her job was in jeopardy.

On December 29, 2010, Jones performed some volunteer work at the employer's facility. She visited M.C. and completed a volunteer visit documentation form. (Employer Exhibit One.) While reviewing M.C.'s chart on December 30, Meridan found a note written by the claimant documenting that Jones had visited M.C. the day before. After Meridan indicated the volunteer visit documentation form was not in chart, the claimant pulled M.C.'s file to look for this form. Later, Meridan became suspicious when she thought the claimant added some documents to M.C. file. When Meridan looked at the chart again, the claimant's written notes were not in the chart and a volunteer visit documentation form signed by Jones on December 29 was in the file. The employer compared Jones' signature on December 29 to a document she signed on

December 1. The employer concluded the two signatures were made by two different people. (Employer Exhibit Two.)

On December 30, the employer concluded the claimant had falsified the volunteer visit documentation form that Jones allegedly signed on December 29. The employer's policy prohibits falsification of documentation and informs employees they can be immediately discharged if they falsify a document. As a result of the employer's conclusion that the claimant signed Jones' name on the December 29 document, the employer gave the claimant the choice of resigning and if she did not, the employer would discharge her. The claimant submitted her resignation.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The claimant did not voluntarily resign. Instead, the employer initiated the employment separation by telling the claimant she could resign and if she did not, the employer would discharge her. For unemployment insurance purposes, the employer discharged the claimant.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Based on Meridan's conclusion, the employer established justifiable business reasons for discharging the claimant. The evidence does not, however, establish that the claimant falsified Jones' signature. Jones testified under oath she signed the December 29 document that is in question. Since falsifying Jones' signature is the basis for the claimant's discharge, the employer did not establish that the claimant committed work-connected misconduct. The evidence does not establish that the claimant falsified the December 29 document. Therefore, as of January 2, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's January 28, 2011 determination (reference 01) is reversed. The claimant did not voluntarily quit her employment. Instead, the employer discharged her for business reasons that do not constitute work-connected misconduct. As of January 2, 2011, the claimant

is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css