

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ZADAYSHA DOWNING**  
Claimant

**TOYOTA MOTOR CREDIT CORP**  
Employer

**APPEAL 20A-UI-08581-HP-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 04/12/20**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2) – Discharge Due to Misconduct

**STATEMENT OF THE CASE:**

Claimant Zadaysha Downing filed an appeal from a July 16, 2020 (reference 02) unemployment insurance decision that denied benefits based upon her discharge from employment with Toyota Motor Credit Inc. (“Toyota”). Notices of hearing were mailed to the parties’ last known addresses of record for a telephone hearing scheduled for September 2, 2020, at 8:00 a.m. Downing appeared and testified. Julie Beck registered a telephone number on behalf of Toyota, but was not available at the registered number at the time of the hearing and she did not participate in the hearing. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

**ISSUE:**

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

**FINDINGS OF FACT:**

On August 8, 2019, Downing commenced full-time employment as a customer service representative with Toyota. Downing’s immediate supervisor was Chad.

On April 7, 2020, Downing went out on a medical leave. On April 16, 2020, Downing received a call from Julie Beck and the manager of customer service. During the call Toyota informed Downing that she had not met the metrics for customer service for three consecutive months and Toyota did not believe she was a good fit for the company and she was being let go. Downing testified she was shocked by the call and noted she had received positive praise for performance during her employment. Downing reported she had not been warned she had not made the metrics for three consecutive months or that her job was in jeopardy before April 16, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

Under Iowa Code section 96.5(2)a,

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits: . . .

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 disqualification shall continue 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 Iowa Administrative Code 24.31(1)a, defines the term "misconduct" 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the Iowa Legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 558 (Iowa 1979).

871 Iowa Administrative Code 24.32(4) provides,

*Report required.* The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

In addition, 871 Iowa Administrative Code 24.32(8) provides:

*Past acts of misconduct.* While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

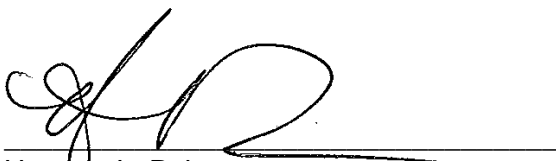
The employer bears the burden of proving the employee engaged in disqualifying misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6, 11 (Iowa 1982) The issue is not whether the employer made a correct decision in separating the claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262, 264 (Iowa Ct. App. 1984)

Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits; such misconduct must be “substantial.” *Newman v. Iowa Dep’t of Job Serv.*, 351 N.W.2d 806, 808 (Iowa Ct. App. 1984) The definition of misconduct in the administrative rule focuses on deliberate, intentional, or culpable acts by the employee. *Id.* When based on carelessness, the carelessness must actually indicate a “wrongful intent” to be disqualifying in nature. *Id.* at 808-09. Negligence does not constitute misconduct unless it is recurrent in nature; a single act is not disqualifying unless it is indicative of a deliberate disregard of the employer’s interests. *Henry v. Iowa Dep’t of Job Serv.*, 391 N.W.2d 731, 735 (Iowa Ct. App. 1986) Additionally, poor work performance is not misconduct in the absence of intent. *Miller v. Emp’t Appeal Bd.*, 423 N.W.2d 211, 213 (Iowa Ct. App. 1988). The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Emp’t Appeal Bd.*, 616 N.W.2d 661, 666-69 (Iowa 2000) What constitutes misconduct justifying termination of an employee and what misconduct warrants a denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep’t of Job Serv.*, 425 N.W.2d 679, 680 (Iowa Ct. App. 1988) Instances of poor judgment are not misconduct. *Richers v. Iowa Dep’t of Job Serv.*, 479 N.W.2d 308, 312 (Iowa 1991); *Kelly v. Iowa Dep’t of Job Serv.*, 386 N.W.2d 552, 555 (Iowa Ct. App. 1986).

On April 16, 2020, Beck and the manager of customer service informed Downing she was being terminated because she did not meet the metrics for three consecutive months. Downing testified she had not been informed she was not meeting the metrics or that her job was in jeopardy before she received the call. No one appeared on behalf of Toyota to rebut Downing’s testimony. Toyota has failed to establish any intentional and substantial disregard of its interest, which rises to the level of willful misconduct. As such, benefits are allowed, provided Downing is otherwise eligible.

**DECISION:**

The July 16, 2020 (reference 02) unemployment insurance decision denying unemployment insurance benefits is reversed. The employer has not established the claimant was discharged for misconduct for a disqualifying reason. Benefits are allowed provided the claimant is otherwise eligible.



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September 3, 2020  
Decision Dated and Mailed

hlp/scn