

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGIE K PEHANICH-KOSTER
Claimant

APPEAL NO. 07A-UI-02401-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PARK PROFESSIONAL SERVICES INC
Employer

**OC: 02/04/07 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Angie K. Pehanich-Koster (claimant) appealed a representative's March 2, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Park Professional Services, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 26, 2007. The claimant participated in the hearing. Jason Seibers, the general manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 19, 2005. The claimant worked as a full-time prep cook.

The employer noticed prep cooks were not getting all assigned tasks completed before they left work at the end of a shift. On February 8 or 9, 2007, the employer gave the claimant a prep list that included dicing onions. Before Seibers left for the evening, he asked to see the claimant's prep list to make sure she had completed all the jobs he had assigned her to do.

By the time Seibers asked to look at the prep list, the claimant had already thrown it in the garbage. After claimant retrieved the prep list from the garbage, Seibers noticed the claimant had crossed off at least two job tasks she had not yet completed. The jobs not completed were dicing onions and pulling bread out of the freezing. Seibers told the claimant that if she ever again marked off a job as being completed when it was not, the employer would discharge her. Seibers intended to discharge the claimant if she left work without completing all the work assigned to her.

After Seibers left work on February 8, the claimant was asked to make a baked potato. The claimant had not anticipated she would be required to make a baked potato at the last minute and did not get onions diced as the employer instructed her to do on the prep list. The claimant forgot about doing the onions or telling any of the cooks she had to leave work right at 10:00 p.m. that evening and had not gotten any onions diced. Dicing onions involved 10 to 15 minutes of work. The claimant wanted to get home right away because she had a sick child at home.

The next day, Seibers learned the claimant had not diced onions as she had been requested to do. The employer discharged the claimant after concluding she refused to do assigned job tasks. On February 8, the claimant left work at 10:00 p.m. The claimant and other employees usually did not leave work until 10:30 p.m. because they had not usually get their clean-up work done until 10:30 p.m. or later. On February 9, the employer discharged the claimant for failing to do her job duties the night before.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. 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).

It is difficult to understand how or why the claimant could forget about dicing onions, a job on her prep list the evening of February 8 or 9 because before Seibers left work, he talked to the claimant about getting this job task completed during her shift. This in conjunction with the claimant leaving work earlier than usual and the small amount of time it would have taken to dice the onions or tell a cook she had not gotten this task completed are all factors that lead to the conclusion the claimant intentionally failed to do this job the last night of her employment.

The first time the claimant mentioned anything about a sick child was during the March 26 hearing. Since the claimant had not previously indicated she had to get home because she had a sick child at home, a preponderance of the evidence indicates the claimant intentionally failed to perform a job she had been assigned to do on February 8 or 9. The claimant's failure to do a job assigned to her constitutes work-connected misconduct. As of February 4, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 2, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that amount to work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of February 4, 2007. This

disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css