

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAULA L WHEELER**  
Claimant

**APPEAL NO. 06A-UI-10312-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOODWILL INDUSTRIES OF SE IOWA**  
Employer

**OC: 08/27/06 R: 03**  
**Claimant: Respondent (1-R)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The employer, Goodwill, filed an appeal from a decision dated October 17, 2006, reference 01. The decision allowed benefits to the claimant, Paula Wheeler. After due notice was issued a hearing was held by telephone conference call on November 7, 2006. The claimant participated on her own behalf. The employer participated by Senior Vice President Mike Townsend and was represented by Cambridge in the person of Heather Cichon.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Paula Wheeler was employed by Goodwill from April 3, 2003 until August 30, 2006. She was originally a donations clerk but went on FMLA from April 25 until July 18, 2006, for back problems. An extension was requested but not granted, but she was offered a store clerk position when she returned on August 20, 2006. She worked three days and then requested additional leave time of at least a month, due to heart problems. The request was denied and she was discharged.

The claimant was under a doctor's care for her heart problems until being released to return to work without restrictions on October 9, 2006.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined 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 legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

Disqualification may be imposed only if the claimant was discharged for substantial, job-related misconduct. The record establishes the claimant was discharged because she was unable to work for at least a month due to medical problems, after having exhausted her FMLA for a prior medical problem. Medical problems are not volitional and cannot be considered misconduct. Disqualification may not be imposed.

The issue of whether the claimant was able and available for work, and eligible for unemployment benefits from the effective date of her claim until October 9, 2006, should be remanded to the Claims Section for determination.

**DECISION:**

The representative's decision of October 17, 2006, reference 01, is affirmed. Paula Wheeler is qualified for benefits, provided she is otherwise eligible.

The issue of the claimant's eligibility for benefits, and whether she was able and available for work from the effective date of her claim until she was released by her doctors, is remanded to the Claims Section for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs