

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ETHEL M CUNNINGHAM**  
Claimant

**APPEAL NO. 12A-UI-01837-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QWEST CORPORATION**  
Employer

**OC: 01/15/12  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated February 17, 2012, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on March 12, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Angela Randle participated in the hearing on behalf of the employer with witnesses, Alesha Gigaroa and Tanya Windschitl.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a customer service and sales representative from April 11, 2011, to January 17, 2012. The claimant was responsible for taking in-bound calls from customers regarding the employer's services and products. As part of their job responsibilities, representatives were required to generate new sales of products and services.

The employer required representatives to achieve a monthly sales goal of 90 percent that was made up of sales of different products and services. When the claimant was originally hired, she was informed that she would have one year before the 90-percent sales goal would apply to her, but when Century Link took over from Qwest, she was informed that the 90-percent sales goal was required immediately.

The claimant received warnings in October, November, and December 2011, for not reaching the required monthly sales goals. The December warning informed the claimant that she would be dismissed if the sales goal was not met for the month of December.

For the month of December 2011, the claimant's sales figures came to about 52 percent and so she was discharged for unsatisfactory sales efficiency on January 17, 2012.

The claimant performed her job to the best of her ability and attempted to generate sales to meet the sales goals she was given. She never deliberately neglected to perform her job duties regarding making sales.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

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 substantial and 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).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case. The claimant performed her job to the best of her ability but did not meet the employer's standard for sales.

**DECISION:**

The unemployment insurance decision dated February 17, 2012, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs