

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HOLLY J FEILMEIER
Claimant

APPEAL NO. 11A-UI-05882-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QUALITY PRODUCTS/PERSONNEL
Employer

**OC: 04/03/11
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 22, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 1, 2011. Claimant participated. Employer participated by Greg Melcher.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer and whether claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was employed with the employer from August 9, 2010 through March 25, 2011. She submitted her resignation on March 18, 2011 to be effective April 1, 2011. Before her resignation was accepted she rescinded it. However, the employer filled her position anyway and would not allow her to continue working.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Code § 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.

Claimant's testimony as to the sequence of events is credible and accepted. The claimant was terminated because the employer wished to fill her position with another employee. This is not disqualifying misconduct.

DECISION:

The April 22, 2011, reference 01, decision is reversed. Benefits are allowed, provided claimant is otherwise eligible.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/pjs

