

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LA DONNA HINDERS
Claimant

APPEAL NO. 09A-UI-19024-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SKY VENTURES – PIZZA HUT
Employer

**OC: 11/15/09
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Pizza Hut filed an appeal from a representative's decision dated December 8, 2009, reference 01, which held that no disqualification would be imposed regarding La Donna Hinders' separation from employment. After due notice was issued, a hearing was held by telephone on February 1, 2010. Ms. Hinders participated personally. The employer participated by Chris Hamlin, General Manager. The hearing record was left open to allow the parties to submit telephone records for pertinent dates. Neither party submitted additional documentation and, therefore, the record was closed.

ISSUE:

At issue in this matter is whether Ms. Hinders was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Hinders was employed by Pizza Hut from October 28, 2007 until October 14, 2009 as a crew member. She worked from 20 to 32 hours each week. She was scheduled to be at work at 4:30 p.m. on October 14, 2009. She called a coworker and asked if she could work for her. The request was based on the fact that Ms. Hinders was being delayed at her other job. The coworker agreed to work for her until 5:00 p.m.

After she got off from her other job, Ms. Hinders received a text message indicating her services were not needed that evening at Pizza Hut. She was also scheduled to work on October 15 but received a message before her starting time indicating she was to turn in her uniforms as her services were no longer needed.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321

N.W.2d 6 (Iowa 1982). Ms. Hinders was discharged because she failed to work on October 14. However, she had a good-faith belief that her shift was covered. She had arranged for a coworker to cover her shift until 5:00 p.m. and was later told her services would not be needed that night. Therefore, her failure to appear on October 14 did not constitute a deliberate act of misconduct. She was discharged before she could appear for her shift on October 15.

The evidence as a whole failed to establish any acts of misconduct on Ms. Hinders' part. As such, no disqualification is imposed. The employer may have had good cause to discharge her. However, conduct that might warrant a discharge will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983).

DECISION:

The representative's decision dated December 8, 2009, reference 01, is hereby affirmed. Ms. Hinders was discharged but misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs