

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALBA CALDERON**

Claimant

**APPEAL NO. 11A-UI-07355-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SFN PROFESSIONAL LLC**

Employer

**OC: 04/17/11**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated May 31, 2011, reference 02, that held she voluntarily quit without good cause on April 20, 2011, and which denied benefits. A telephone hearing was held on June 29, 2011. The claimant and interpreter, Nissa Redmond, participated. The employer did not participate.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant began employment as a full-time laborer on October 25, 2010, and last worked for the employer on April 20, 2011. The employer moved claimant to a new line on April 20 that required harder work. When she began feeling ill, she asked her lead person to leave work and go home. She was given permission to leave.

Later, Roberto Campos called claimant about why she left work, and claimant explained what had happened. Campos discharged claimant for leaving work. Campos was not available at the phone number provided when called for the hearing.

**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.

The administrative law judge concludes the employer did not establish claimant was discharged for misconduct in connection with employment on April 20, 2011. Claimant denied she quit employment when she left work with supervisor permission due to illness. The employer failed to participate in this hearing and offer evidence the employment separation is for any job-disqualifying misconduct.

**DECISION:**

The department decision dated May 31, 2011, reference 02, is reversed. The claimant did not quit her job and she was not discharged for misconduct on April 20, 2011. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw