

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 05A-UI-02820-DWT
OC: 01/30/05 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Casey's Marketing Company (employer) appealed a representative's March 8, 2005 decision (reference 01) that concluded Melissa A. Sutherland (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the employer discharged the claimant for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 5, 2005. The claimant participated in the hearing. Sherry Jacobs, the area supervisor, and Cory Pfeifer, an employee, testified on the employer's behalf. Brenda Heilbert, the manager, was available to testify. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on May 2, 2001. The claimant had been working as the manager until mid-January 2005. In mid-January the employer demoted the claimant to an assistant manager and made her assistant manager the manager or the claimant's supervisor.

On January 26, the claimant and Pfeifer were working when Pfeifer accidentally hurt her hand on the lid of the employer's safe. Pfeifer's hand hurt and it became swollen. When Pfeifer told the claimant about her injury, the claimant told her to put some ice on her hand. Although Pfeifer put ice on her hand, it still hurt and she wanted to have a doctor look at it. Pfeifer understood the claimant would not let her leave unless she found another employee who was willing to cover the rest of her shift. Pfeifer called several people, but could not find anyone to come in and cover for her shift. Although Pfeifer did not specifically state she wanted to see a doctor right away, the claimant understood Pfeifer ultimately wanted a doctor to look at her hand. The claimant did not offer to cover Pfeifer's shift so she could have a doctor look at her hand. The claimant left work at 3:30 p.m.

When Pfeifer was done working at 4:00 p.m., she went to the hospital. A doctor indicated she had soft tissue damage. Pfeifer's hand was in a sling for about a week and she took anti-inflammatory medicine to reduce the swelling.

On January 28, 2005, the employer discharged the claimant because she denied an employee medical treatment for an injury that occurred at work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. 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 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established business reasons for discharging the claimant. The evidence indicates the claimant did not realize the employee's injury was serious. Even though the claimant is not an expert in health care issues, her conclusion that an employee did not need immediate medical attention amounts to negligence or an error in judgment. Therefore, the employer established business reasons for discharging the claimant.

In the past, the claimant personally covered for Pfeifer when Pfeifer had to leave work early for health-related issues. The facts indicate the claimant would have stayed and covered Pfeifer's shift if Pfeifer insisted on receiving medical treatment immediately. A preponderance of the evidence does not establish that the claimant intentionally disregarded the employer's interests when she did not offer to cover Pfeifer's shift so she could see a physician. The facts show the claimant did not commit work-connected misconduct. As of January 30, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 8, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for reasons for reasons that do not constitute work-connected misconduct for unemployment insurance purposes. As of January 30, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/sc