

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BERNITA W TURNER
Claimant

APPEAL NO: 13A-UI-12353-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 09/29/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 22, 2013 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing. Alyce Smolsky represented the employer and Tom Hoskins, the administrator, testified on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in March 2012. She worked as a full-time housekeeper. Prior to September 18, 2013, the claimant's job was not in jeopardy.

The claimant started an approved leave of absence, FMLA, on September 5. On September 18, Hoskins received information from a law enforcement official that the claimant had been charged with false use of a credit card. Hoskins learned the claimant used a stolen credit card at Wal-Mart, and the stolen credit card belonged to one of the employer's residents. Hoskins tried to talk to the claimant after receiving this information, but the claimant was out-of-state.

On September 23, the employer sent the claimant her termination letter. The employer informed the claimant she was discharged because she admitted to local law enforcement officials she had used a resident's stolen card to buy items for herself. (Employer Exhibit One.)

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 law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The evidence indicates the claimant used a stolen credit card that another person gave her. The claimant knew or should have known the stolen credit card belonged to a resident at the employer's facilities. Since the claimant used a credit card that belonged to one of the employer's residents, she committed work-connected misconduct. The claimant intentionally and substantially disregarded the employer's interests and her obligations to the employer when she used a resident's stolen credit card for herself instead of turning in the stolen credit card. As of September 29, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representative's October 22, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of September 29, 2013. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs