

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARAH K LONG
Claimant

APPEAL NO. 10A-UI-05859-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PETCO ANIMAL SUPPLIES INC
Employer

**Original Claim: 03/14/10
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's April 12, 2010 decision (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. A telephone hearing was held on May 25, 2010. The claimant participated in the hearing. Eric Abel, the general manager, appeared on the employer's behalf. 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 January 9, 2009. The claimant worked as a full-time sales associate.

On November 14, 2009, the claimant received a written warning for failing to complete cleaning tasks during her shift. Specifically, water bottles had not been filled and small animal cages were not cleaned. The employer warned the claimant that if she continued to fail to complete her cleaning tasks, she could be discharged.

On November 17, 2009, when Abel was on a leave of absence, employees reported problems with the claimant to the district manager. Specific problems included using cardboard boxes instead of plastic totes to put birds in while she cleaned their cages. The claimant had been told not to use the cardboard boxes for this purpose and she did. An employee reported seeing the claimant reading a book in the grooming room instead of cleaning bird habitats. When a manager walked in, the claimant put the book down. Also when the manager talked to the claimant about getting her cleaning tasks completed and that she had not cleaned a drain satisfactorily, the claimant rolled her eyes at the manager. Before the claimant's shift ended, she received four or five written warnings for failing to do her work satisfactorily, for inappropriate behavior and for failing to follow instructions. On November 17, the employer sent the claimant home two hours early.

On November 19, 2009, the district discharged the claimant for the warnings or issues that occurred on November 17. The employer specifically discharged the claimant for unsatisfactory work performance, inappropriate behavior – rolling her eyes at a manager, and for using cardboard boxes to house small animals when she cleaned their cages instead of housing them in a plastic tote as she had been told a number of times to do.

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. 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 claimant knew or should have known her job was in jeopardy after she received the November 14, 2009 written warning for failing to do her cleaning job duties or failing to do them satisfactorily. The claimant acknowledged she had been told not to use the cardboard boxes the employer used for customers to take small animals home. The claimant's reason for using the cardboard box after she had been told not to was because it was easier to use the cardboard box than clean out plastic totes. Since the claimant did not receive permission to use the cardboard box instead of the plastic tote on November 17, using cardboard boxes amounts to an intentional and substantial disregard of the directions the employer gave her. This alone constitutes work-connected misconduct. Therefore, as of March 14, 2010, the claimant is not qualified to receive benefits.

DECISION:

The representative's April 12, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for committing work-connected misconduct on November 17, 2009. The claimant is disqualified from receiving unemployment insurance benefits as of March 14, 2010. 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/kjw