

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**FAYE M MILLER**  
Claimant

**COPART OF CONNECTICUT INC**  
Employer

**APPEAL 20A-UI-01774-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/03/19**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the February 21, 2020 (reference 05) unemployment insurance decision that found the claimant was not eligible for unemployment insurance benefits based upon her discharge from employment. The parties were properly notified of the hearing. A telephone hearing was held on March 13, 2020. The claimant, Faye M. Miller, participated personally. The employer, Copart of Connecticut Inc., was represented by Jackie Boudreaux and participated through witness Caitlin Tucker.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed beginning on April 1, 2019 and was discharged on January 22, 2020. She was employed as a customer service representative. Part of her job duties involved answering telephone calls to assist customers with title issues. Erinie Banks was the claimant's immediate supervisor.

The final incident leading to discharge occurred on January 16, 2020. After a difficult telephone call with a customer, claimant sought the advice of Ms. Tucker in how to handle a call when she was having a language barrier and could not understand what the customer was saying. The claimant stated to Ms. Tucker that "the caller was obviously black, African-American. She started talking with that slang, that jive talk, I just don't understand." Ms. Tucker reviewed the call and the claimant was able to help the customer with her issue. There were no instances that Ms. Tucker determined during the call where the claimant was discriminating against the customer.

The employer has a written policy against discrimination and harassment based upon race in the workplace. The claimant received a copy of the written policy.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

Further, the employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the

employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). The focus of the administrative code definition of misconduct is on deliberate, intentional or culpable acts by the employee. *Id.* When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Further, poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988). The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Bd.*, 616 N.W.2d 661 (Iowa 2000).

In this case, the claimant was not found to have harassed or discriminated against the customer when Ms. Tucker reviewed the telephone call. The written policy prohibits discrimination and harassment. No credible evidence was offered that the claimant discriminated or harassed based upon race.

The employer has failed to establish any intentional and substantial disregard of the employer's interest which rises to the level of willful misconduct. As such, benefits are allowed, provided the claimant is otherwise eligible. The employer may be charged for benefits paid.

**DECISION:**

The February 21, 2020 (reference 05) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible.

---

Dawn Boucher  
Administrative Law Judge

---

Decision Dated and Mailed

db/scn