

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLEY LYDIC
Claimant

APPEAL NO. 13A-UI-02203-B

**ADMINISTRATIVE LAW JUDGE
DECISION**

METRO SALVAGE POOL INC
Employer

OC: 01/06/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Kelley Lydic (claimant) appealed an unemployment insurance decision dated February 14, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Metro Salvage Pool, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a hearing began in Des Moines, Iowa on April 1, 2013 and was completed on May 6, 2013. The claimant participated in the hearing. The employer participated through Addison Zugg, Chief Operating Officer; Sammy Palmer, Business Consultant; and Scott Frank, General Manager. This case was heard by Administrative Law Judge Julie Elder. Before a decision could be issued Judge Elder went on an indefinite leave of absence. The case was re-assigned to Administrative Law Judge Susan Ackerman per direction from lead worker Administrative Law Judge Teresa Hillary. Judge Ackerman is hereby issuing a decision based upon the taped recording of the hearing and the exhibits admitted into the record.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time office manager from March 23, 2012 through January 9, 2013 when she was discharged for poor job performance and mismanagement of company assets. There had been ongoing problems since November 20, 2012 when the employer reprimanded her for vulgar and offensive language, failing to follow reasonable instructions and failure to carry out specific tasks. The claimant was made aware of her deficiencies and the fact that failure to comply with job expectations would result in termination.

The claimant's unprofessional conduct continued when she told employees to throw trash on the floor so the cleaning lady had to pick it up. In January 2013, she negligently dispatched employees to pick up a vehicle which had already been picked up and sent an employee to an

incorrect address. The claimant also dispatched employees to pick up a vehicle that had not been cleared for pick up. Without authorization, she prepaid her health insurance premium three months in advance after she learned that her job was in jeopardy when premiums were generally paid each month when due. The claimant also hid the fact that she paid the large amount. The day before she was discharged, the employer learned that she had carelessly left \$10,000.00 cash on a desk in plain view of the public on December 31, 2012. A vendor saw it and commented about it so another employee secured it in the safe.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on January 9, 2013 for poor job performance and mismanagement of company assets. Her repeated negligence and failure to protect company assets were detrimental to the employer's interests. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct.

DECISION:

The unemployment insurance decision dated February 14, 2013, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css