

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEJLA SULJEVIC
Claimant

APPEAL NO. 08A-UI-05795-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEEF PRODUCTS INC
Employer

**OC: 05/25/08 R: 03
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a representative's decision dated June 18, 2008, reference 01, which denied benefits based upon her separation from Beef Products Inc. After due notice was issued, a hearing was held by telephone on July 9, 2008. Claimant participated personally. The employer participated by Rachel Ficken, Jennifer Stubbs and Mike Morris.

ISSUE:

The issue in this matter is whether the claimant was discharged for misconduct in connection with her work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from December 2004 until May 22, 2008 when she was discharged from employment. Ms. Suljevic was employed as a full-time quality assurance inspector and was paid by the hour. Her immediate supervisor was Mike Morris.

The claimant was discharged based upon an incident that occurred on May 20, 2008. On that date the claimant was given a specific work assignment by her supervisor. The claimant, who believed other quality assurance workers were available to do the task, argued with her supervisor in the presence of other workers directing inappropriate language to her supervisor.

Based upon the claimant's argumentative demeanor in the presence of other employees and the language that she had directed to her supervisor, the employer reasonably concluded that the claimant had been insubordinate and discharged the claimant.

It was the claimant's position that she subsequently followed the directive and believes that her discharge was related to her previous complaint that she had made about a member of company management.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes Ms. Suljevic was discharged for misconduct in connection with the employment. It does.

Although sympathetic to the claimant's situation, the administrative law judge must conclude based upon the evidence in the record that the claimant's argumentative demeanor and the language that she directed to her supervisor in the presence of other employees was insubordination. The claimant was given a reasonable and work-related directive by her immediate supervisor but chose to argue in the presence of other employees while directing inappropriate language and comments to her supervisor. Ms. Suljevic displayed a disregard for the employer's interests and reasonable standards of behavior that they had a right to expect of its employees and, thus, was disqualifying conduct under the provisions of the Iowa Employment Security Law.

Iowa Code section 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.

871 IAC 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.

For the reasons stated herein the administrative law judge concludes that the claimant was discharged for misconduct. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated June 18, 2008, reference 01, is hereby affirmed. The claimant was discharged under disqualifying conditions. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, providing that she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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