

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSECA M MONTENEGRO

Claimant

APPEAL 21A-UI-24282-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRINITY REGIONAL MEDICAL CENTER

Employer

OC: 09/19/21

Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from the October 25, 2021 (reference 02) unemployment insurance decision that denied benefits finding claimant was discharged for misconduct on September 22, 2021 for failing to follow instructions. The parties were properly notified of the hearing. A telephone hearing was held on December 27, 2021. Claimant participated. Employer did not participate. No exhibits were admitted.

ISSUE:

Whether claimant's separation was a discharge for disqualifying job-related misconduct.

FINDINGS OF FACT:

As claimant was the only witness, the administrative law judge makes the following findings of fact based solely upon claimant's testimony:

Claimant was employed as a full-time Food Preparation Worker and Cashier from November 2020 until her employment with Trinity Regional Medical Center ended on September 21, 2021.

On September 20, 2021, claimant was scheduled to work until 2:00 p.m. Employer asked claimant to work until 3:30 p.m. Claimant declined because she had to pick up her children from daycare. Employer told claimant that if she did not work late that she would be considered to have voluntarily quit. Claimant asked to speak to human resources. Human resources was not available. Claimant did not work late.

On September 21, 2021, employer discharged claimant stating claimant no longer fit employer's needs. Employer did not provide claimant with a specific reason for her discharge.

REASONING AND CONCLUSIONS OF LAW:

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

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 disqualification shall continue 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:

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 of misconduct has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); accord *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000). 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).

A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy. 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). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988). 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 is on deliberate, intentional, or culpable acts by the employee.

Insubordination does not equal misconduct if it is reasonable under the circumstances. The question of whether the refusal to perform a specific task constitutes misconduct must be determined by evaluating both the reasonableness of the employer's request in light of all circumstances and the employee's reason for noncompliance. *Endicott v. Iowa Dep't of Job Serv.* 367 N.W.2d 300 (Iowa Ct. App. 1985). An employee's failure to perform a specific task may not constitute misconduct if such failure is in good faith or for good cause. *Woods v. Iowa Dep't of Job Serv.*, 327 N.W.2d 768, 771 (Iowa 1982).

Employer did not provide claimant with a specific reason for her discharge. The final incident prior to claimant's termination was claimant's refusal to work late because she had to pick her children up from daycare. Because this is the only information provided, claimant's refusal to work late will be considered as employer's reason for discharge. There is no evidence of employer's reasons for requesting claimant to work late; therefore, the reasonableness of employer's request cannot be determined. Claimant's refusal to work late was in good faith and for good cause; therefore, claimant's refusal does not constitute insubordination. Employer has not met its burden of proving disqualifying, job-related misconduct. Claimant was discharged for no disqualifying reason. Benefits are allowed provided claimant is otherwise eligible.

DECISION:

The October 25, 2021 (reference 02) unemployment insurance decision is reversed. Claimant was discharged for no disqualifying reason. Benefits are allowed provided claimant is otherwise eligible.



Adrienne C. Williamson
Administrative Law Judge
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December 29, 2021
Decision Dated and Mailed

acw/acw