

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PHYLLIS J WINCHEL
Claimant

APPEAL NO: 14A-UI-04344-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IA DEPT OF HUMAN SVCS/GLENWOOD
Employer

**OC: 03/23/14
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's April 14, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account subject to charge because she had been discharged for disqualifying reasons. The claimant participated at the May 30 hearing with her attorney, Michael J. Murphy. Debra Campbell represented the employer. Pamela Sipes appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not disqualified from receiving benefits as of March 23, 2014.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in May 2002. She worked full time as a residential treatment employee. On March 16, 2014, the employer suspended the claimant with pay. On March 26, 2014, the employer discharged the claimant for attendance issues. The employer has a no-fault attendance policy.

The claimant filed a grievance. As a result of the grievance May 16 decision, the claimant returned to work and the employer paid her back wages as of March 26, 2014. Based on the grievance, the employer stipulated the claimant had been discharged for reasons that did not amount to work-connected misconduct.

The claimant established a claim for benefits during the week of March 23, 2014. She filed claims for the week ending March 29 through April 12, 2014.

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. The employer has the burden to prove the claimant was discharged for work-connected

misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

As a result of the claimant's grievance, the employer reinstated the claimant and paid her back wages since March 26, 2014. The employer stipulated that the claimant did not commit work-connected misconduct. As a result, the claimant is not disqualified from receiving benefits. (Since the claimant received back wages as of March 26, 2014, the claimant is not eligible to receive benefits for the weeks ending March 29 through April 12, 2014.)

DECISION:

The representative's April 14, 2014 determination (reference 01) is reversed. The employer did not discharge the claimant for reasons that constitute work-connected misconduct. As of March 23, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs