

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN R GREEN**  
Claimant

**APPEAL NO. 08A-UI-02490-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SOFA MART LLC**  
Employer

**OC: 02/10/08 R: 04**  
**Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Sofa Mart LLC (claimant) appealed a representative's March 6, 2008 decision (reference 01) that concluded Steven R. Green (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 27, 2008. The claimant participated in the hearing. Jeff Weyand, the employer's representative, and Dave Robinson, the store manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer in March 2006. The claimant worked for the employer as an in-store furniture technician. The claimant's job required him to be out of the store a great deal, because he went to customers' homes to repair furniture. Robinson supervised the claimant.

On July 20, 2007, the employer gave the claimant a written warning for failing to go to a scheduled appointment at a customer's home. The claimant admitted he forgot to cancel an appointment on July 20. The claimant's child has cancer. The child's doctor called unexpectedly asking the claimant to bring his child to the hospital on July 20. The claimant forgot about the appointment and instead concentrated on his child's health.

Although the employer noticed problems with the claimant making timely appointments with customers to repair furniture, the employer did not give the claimant another written warning for this problem. The employer gave the claimant a work order on December 11 and 14 for the same customer. When the customer's problem was not resolved, an outside furniture repair company was contacted, but this company was not able to get back to the customer right away.

The employer then gave the claimant another work order for this customer on January 22. The employer asked the customer to contact Robinson if the claimant did not contact him to schedule an appointment. On February 10 or 11, the customer contacted Robinson and reported that the claimant had not yet contacted him. When Robinson asked the claimant about this customer, he indicated he had already contacted the customer. The employer concluded the claimant had never gone to the customer's home to resolve the issue the customer had with his furniture.

On January 16, Robinson gave the claimant a work order for another customer. On January 26, the customer called the employer to report the outside furniture repair company had resolved the furniture issue that had been reported. The employer believed that as of January 22, the claimant had not attempted to make an appointment to repair this customer's furniture. The claimant did go to the customer's home the day after it had been repaired by the outside furniture repair company. The record does not indicate when the claimant made the appointment to repair the furniture.

The employer discharged the claimant as of February 13, 2008. The employer discharged the claimant after concluding the claimant repeatedly failed to provide service to customers that the employer assigned to the claimant. The employer believed the claimant failed to make timely appointments to repair customers' furniture.

The claimant had no idea his job was in jeopardy. When the employer gave him work orders, he took home the work orders for customers that he could not contact during the day. The claimant discovered that many people could not be reached until the evening or when they were home from work. The claimant tried to contact customers within three days of receiving a work order to schedule an appointment. When Robinson asked the claimant to contact a customer immediately, he tried to do so. The claimant does not remember the January 22 work order.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established justifiable business reasons for discharging the claimant. It is, however, difficult to understand why the employer had not given the claimant any more written

warnings for failing to make appointments in a timely manner after July 20, 2007. If this was such a problem, the employer should have documented these instances and talked to the claimant to find out why this occurred. Even though the claimant may have a received work orders on December 11 and 14 for a customer, this does not mean the claimant did not attempt to resolve the problem for this customer. An outside furniture repair company was contacted on January 9. When this company could not get to the customer right away, the employer gave the claimant a work order on January 22 to resolve this customer's issues. The claimant does not remember the January 22 work order and did not have a copy of the work order that he keeps for his personal reference. If the employer was worried about the claimant providing timely customer service, it is difficult to understand why the employer did have the claimant report when he contacted the customer and the date he was to service the customer's furniture. Instead, the employer asked the customer to contact him if the claimant did not contact him.

Since the employer has the burden to establish the claimant was discharged for work-connected misconduct, the evidence in this case does not establish that the claimant intentionally failed to contact customers to make arrangements as to when he could look at and repair their furniture. The facts do not establish that the claimant was so negligent in contacting customers to set up appointments that he committed work-connected misconduct. The evidence does not establish that the claimant committed a current act of work-connected misconduct. As of February 10, 2008, the claimant is qualified to receive benefits.

**DECISION:**

The representative's March 6, 2008 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute a current act of work-connected misconduct. As of February 10, 2008, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw