

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAWN R MARRAH
Claimant

APPEAL NO: 11A-UI-14725-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHNEIDER NATIONAL CARRIERS INC
Employer

**OC: 10/16/11
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 7, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the hearing. Bill Huppert, the account service manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in December 2010. The claimant worked as a full-time customer service representative. Huppert supervised the claimant. The employer's policy informs employees they must be prudent and professional when using the employer's electronic equipment. The claimant and Huppert worked at the client's on-site location.

Prior to October 17, the claimant's job was not in jeopardy. During the last six months of her employment, the claimant sent emails and text messages to a friend who worked for the employer's client. The claimant sent some messages to her friend when she was frustrated with work and Huppert. An email she sent that resulted in her discharge indicated that she hated Huppert and almost quit but had not because she could f_____ with him more if she stayed. Someone reported this email message to Huppert's manager. Huppert learned about the message on October 17 and was told to escort the claimant out of the building. On October 18, management discharged the claimant because of her inappropriate use of the employer's electronic equipment and her insubordinate remarks about Huppert. The claimant received a letter informing her she had been discharged as of October 18, 2011.

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.

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 claimant knew or should have known that if she used the employer's email, anyone could see what she wrote. She violated the employer's policy when she sent an email to an employee who worked for the employer's client. In the email she not only used inappropriate language but also made a comment that could be construed as threatening Huppert. If the claimant had issues with Huppert, venting her frustration about him to the client's employee through the employer's electronic equipment was inappropriate and constitutes work-connected misconduct. As of November 7, 2011, the claimant is not qualified to receive benefits.

Even though the claimant testified she received a text message from Huppert that used inappropriate language, a text message is more analogous to a private conversation than an email sent from the employer's electronic equipment.

DECISION:

The representative's November 7, 2011 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 16, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css