

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COURTENAY J WILLIAMS

Claimant

APPEAL NO: 09A-UI-16425-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HOSPITAL

Employer

OC: 09/27/09

Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's October 22, 2009 decision (reference 01) that concluded she was not qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for disqualifying reasons. A telephone hearing was held on January 11, 2010. The claimant participated in the hearing. Derek Johnson, attorney at law, represented the claimant. Michael Williams observed the hearing. Prior to the hearing, the employer's attorney notified the Appeals Section that the employer had decided not to participate in the hearing. During the hearing, Claimant Exhibits A through G were offered and admitted as evidence. Based on the evidence, the arguments of the claimant, 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 on May 6, 1996. She worked as a full-time communications support specialist. In September 2008, the employer told the claimant her job was going to be eliminated because the employer was going to make changes at the help desk. (Claimant Exhibit A.) The employer offered the claimant continued employment but she had to obtain some professional certification by October 1, 2009, so she could become a Help Desk Analyst.

The claimant attended the class at Kirkwood Community College the employer directed her to take for this new position. The claimant started the classes in November 2008 and satisfactorily completed this requested course in May 2009. (Claimant Exhibit C.) The claimant talked to the employer after she completed the course about her concerns that the class did not adequately prepare her to take the required examination to become certified.

In August 2009, the claimant contacted New Horizon's Learning Center to set up a time to take the certification test. The claimant then learned that the Kirkwood classes did not adequately prepare people for the test and it was suggested that the claimant download some practice

exams. The employer agreed to pay for the practice exams. The claimant studied and took the practice exams before she took her test.

The claimant took the certification test on September 21. She did not pass the test. She studied some more and took the test a second time on September 29. Again, the claimant did not pass the test. On September 30, 2009, the employer ended the claimant's employment because she had not been able to obtain the professional certification that was needed to become a Help Desk Analyst by October 1, 2009. (Claimant Exhibit E and F.)

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).

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 evidence shows the claimant took reasonable steps to obtain a professional certification for a new position, Helpdesk Analyst, within the time the employer requested. Even though the claimant took the requested class and studied additional materials in preparing to take the test, she did not pass the test. The claimant took the test two times and failed it both times even though she studied for the test and took the suggested practice tests. The claimant did not intentionally or substantially disregard of the employer's interests. Instead, the claimant's inability to pass the certification test prevented her from continuing her employment. The claimant did not commit work-connected misconduct. Therefore, as of September 27, 2009, the claimant is qualified to receive benefits.

DECISION:

The representative's October 22, 2009 decision (reference 01) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of September 27, 2009, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css