

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDSAY R ROCHA
Claimant

APPEAL NO. 22R-UI-01602-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DONALDSON COMPANY INC
Employer

OC: 04/25/21
Claimant: Respondent (1)

Iowa Code section 96.5(2)(a) – Discharge

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 28, 2021, reference 01, decision that held the claimant was eligible for benefits provided she met all other eligibility requirements and that employer's account could be charged for benefits, based on the Benefits Bureau deputy's conclusion that the claimant was discharged on May 14, 2021 for no disqualifying reason. After due notice was issued, a hearing was held on February 9, 2022. Claimant, Lindsay Rocha, participated. Ron Bethany represented the employer and presented additional testimony through Kris Klennert. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant, which record reflects that no benefits have been disbursed to the claimant in connection with the April 25, 2021 original claim.

ISSUES:

Whether the claimant was laid off, was discharged for misconduct in connection with the employment, or voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began her full-time employment with Donaldson Company, Inc. in October 2020 and last performed work for the employer in December 2020. Neither the claimant nor the employer is able to provide the actual last date worked. The claimant was assigned to a new set of duties in December 2020. The claimant has a history of carpal tunnel syndrome in her right wrist and underwent surgery several years earlier. The new duties assigned in December 2020 were more physically taxing than the claimant's previous duties and caused the claimant to experience pain in both wrists. In December 2020, the pain in the claimant's wrists prompted the claimant to go the emergency room. The claimant was released to return to work with a two-pound lifting restriction. The employer declined to provide work that would accommodate the lifting restriction. The employer told the claimant the employer had no light-duty work. The claimant remained off work on an approved leave status. In January 2021, the claimant was released to return to work with a 20-pound lifting restriction. The employer again told the claimant there was no light-duty work available and declined to accommodate the claimant's medical restriction. At some point, the claimant commenced receive employer-sponsored short-term disability benefits. The employer expected the claimant to return to work by April 10, 2021. The employer asserts the employer received a medical release document that released the

claimant to return to work at that time without restrictions. The employer has not produced the medical note. The claimant was unaware of any such note. Despite that purported medical release, the employer told the claimant that she would need to provide a separate medical document stating what work she was able to do perform and not perform. The claimant asserts her medical providers refused to provide the requested medical documentation. When the claimant did not return to work, the employer deemed the claimant to be absent without notice to the employer and terminated the employment. The employer documented a termination effective May 3, 2021.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(2)(a) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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:

Discharge for misconduct.

(1) Definition.

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 has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment benefits. Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of unemployment benefits. See *Lee v. Employment Appeal Board*, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, or culpable acts by the employee. See *Gimbel v. Employment Appeal Board*, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

While past acts and warnings can be used to determine the magnitude of the current act of misconduct, a discharge for misconduct cannot be based on such past act(s). The termination

of employment must be based on a current act. See 871 IAC 24.32(8). In determining whether the conduct that prompted the discharge constituted a “current act,” the administrative law judge considers the date on which the conduct came to the attention of the employer and the date on which the employer notified the claimant that the conduct subjected the claimant to possible discharge. See also *Greene v. EAB*, 426 N.W.2d 659, 662 (Iowa App. 1988).

Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. See 871 IAC 24.32(4).

In *Wills v. Employment Appeal Board*, the Supreme Court of Iowa held that an employee did not voluntarily separate from employment where the employee, a C.N.A., presented a limited medical release that restricted the employee from performing significant lifting, and the employer, as a matter of policy, precluded the employee from working so long as the medical restriction continued in place. See *Wills v. Employment Appeal Board*, 447 N.W.2d 137 (Iowa 1989). In *Wills*, the Court concluded that the employer's actions were tantamount to a discharge.

An employer has an obligation to provide an employee with reasonable accommodations that enable the employee to continue in the employment. See *Sierra v. Employment Appeal Board*, 508 N.W. 2d 719 (Iowa 1993).

The evidence in the record establishes a discharge for no disqualifying reason. The administrative law judge notes the employer lacked personal knowledge of most of the material events in question. The evidence indicates the employer terminated the employment after the employer declined to allow the claimant to return to work until she provided medical documentation delineating what work she was able to perform and not able to perform. When the claimant was unable to secure the documentation, the employer terminated the employment. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The July 28, 2021, reference 01, decision is affirmed. The claimant was discharged for no disqualifying reason. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged.



James E. Timberland
Administrative Law Judge

March 4, 2022
Decision Dated and Mailed

jet/scn