

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATRICE A WILSON
Claimant

APPEAL NO. 13A-UI-11277-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

D OF C FOODS INC
Employer

OC: 09/08/13
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 2, 2013, reference 02, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on October 31, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Karla Shedd participated in the hearing on behalf of the employer with a witness, Mario Zuniga.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a crew person for the employer from August 8, 2011, to September 9, 2013.

The claimant was scheduled to work from 5:00 p.m. to 1:00 a.m. on September 9. The claimant left work before the end of her shift after the supervisor on duty had sent another closing employee home in tears. The supervisor was acting unprofessionally toward the employee and the claimant. She was swearing and being rude toward the claimant. The claimant had complained to management about the supervisor's attitude and conduct in the past but noticed no change in the supervisor's behavior. She told the supervisor that she was leaving because she was uncomfortable with her behavior. The supervisor told her that she could leave but the claimant would have to talk to the operations manager about her continued employment. The claimant left work.

The employer discharged the claimant for leaving work without permission.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. The claimant left the restaurant after being treated unprofessionally by her supervisor. She informed the supervisor that she was leaving.

DECISION:

The unemployment insurance decision dated October 2, 2013, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css