

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ZORICA PETIC
Claimant

APPEAL NO. 13A-UI-10777-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRAY TRANSPORTATION INC
Employer

OC: 08/25/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 17, 2013, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on October 16, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Darrin Gray participated in the hearing on behalf of the employer. Exhibits A and One through Eleven were admitted into evidence.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer from September 19, 2012, to August 27, 2013. She started working as a driver but transferred to a driver recruiter position after she was disqualified from driving due to a driving under the influence of alcohol conviction.

On August 27, 2013, the president of the company, Darrin Gray, presented the claimant with a written warning for absenteeism and poor attitude. He requested that she sign the document acknowledging receiving it but she refused to sign it even though Gray indicated that she could write a response if she disagreed with what was in the warning. When she refused to sign it, she was sent home and informed that if she failed to sign the warning by August 29, she would be considered terminated. The claimant continued to refuse to sign in a phone call with Gray on August 29. Gray told the claimant that he would be willing to talk to her on the afternoon of August 29, but the claimant cancelled the meeting in a text message. After the claimant cancelled the meeting, Gray hired a new recruiter that afternoon. The claimant came in on August 30, but was told that she had been replaced.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected

misconduct. Iowa Code § 96.5-1 and 96.5-2-a. I conclude the claimant was discharged for failing to sign the written warning and did not quit.

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

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).

In Green v Iowa Department of Job Service, 299 N.W.2d 651 (Iowa 1980), the Iowa Supreme Court ruled that failure to acknowledge the receipt of a written reprimand by signing it constitutes work connected misconduct as a matter of law. The Green case, however, is distinguishable on the facts. The claimant's failure to sign the document was a willful act or omission constituting a material breach of his duties and obligation to the employer.

DECISION:

The unemployment insurance decision dated September 17, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css