

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SARAH LANGE**  
Claimant

**APPEAL NO. 13A-UI-04238-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AGRI STAR MEAT & POULTRY LLC**  
Employer

**OC: 10/07/12**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Sarah Lange (claimant) appealed an unemployment insurance decision dated April 4, 2013, reference 02, which held that she was not eligible for unemployment insurance benefits because she was discharged from Agri Star Meat & Poultry, LLC (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 4, 2013. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer participated through Laura Roney, Payroll and Human Resources Assistant and Lisa Veatty, Quality Assurance Supervisor. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time laboratory technician from March 8, 2012 through March 21, 2013 when she was discharged for insubordination and continual violation of company policies. She received a final written warning on April 25, 2012 for performance. The claimant was placed on a three-day unpaid suspension on May 22, 2012 for loss of money. She was placed on another three-day suspension on September 24, 2012 for leaving the floor without letting the supervisor know. The claimant had actually left the facility for 45 minutes without clocking out or back in and her actions were considered time theft. She was suspended a third time for three days without pay on October 10, 2012 for continuously reporting to work late.

The final incident occurred on March 14, 2013 when the claimant was insubordinate with Quality Assurance Supervisor Lisa Veatty. The supervisor instructed her to retrieve some labels for the acid barrels and after the claimant retrieved them, she questioned the percentages and told the

supervisor the labels were wrong. The supervisor explained the percentages but the claimant continued to argue and said she was not using them. The supervisor had another technician put the labels on the acid barrels and went to get the rest of the labels from the claimant, only to learn the claimant had thrown away the labels. The supervisor again explained the labels and the claimant began to laugh at her. The supervisor told her she could laugh but was not going to treat the supervisor that way. The claimant responded, "Well, that's how you treat me every fucking day!" The supervisor sent the claimant to human resources and the claimant was suspended pending further investigation. The employer discharged her after reviewing her extensive record of disciplinary warnings.

## **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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.

871 IAC 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.

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on March 14, 2013 for insubordination and continual violation of company policies. She knew or should have known her job was in jeopardy because she had received

four disciplinary warnings and three suspensions prior to the date of the final incident. The claimant's continued violation of company policies shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

**DECISION:**

The unemployment insurance decision dated April 4, 2013, reference 02, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs