

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GLORIA M GONZALEZ CORTEZ
Claimant

APPEAL NO. 09A-UI-04959-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 02/22/09
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 18, 2009, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on April 28, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of an interpreter, with the assistance of an interpreter, Ike Rocha. Tony Luse participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a production worker from March 24, 2008, to February 19, 2009.

The claimant had a medical appointment scheduled in Iowa City on February 19 for her child who was suffering from abdominal pain. She was referred from her doctor to a specialist. She asked her supervisor on February 18 for time off to attend the appointment. The supervisor denied her the time off but told her that if she reported to work the next day, he would consider her request again.

The claimant reported to work early on February 19. She asked for permission to leave again, but her supervisor would not approve. He told her that she would receive an attendance point if she left work. She told her supervisor that she was going to leave at the time of the morning break. She left work at break time at about 10:45 a.m.

When she reported to work on February 20, 2009, the employer discharged her for leaving work without permission or notice to her supervisor.

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).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant's testimony that she informed her supervisor of her intention to leave at break time. She had legitimate reasons for leaving work due to her child's medical appointment. No willful and substantial misconduct has been proven in this case. While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established.

DECISION:

The unemployment insurance decision dated March 18, 2009, reference 01, is affirmed. 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