

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SABRINA K QUANDT**

Claimant

**APPEAL NO. 17A-UI-07826-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COPART OF CONNECTICUT INC**

Employer

**OC: 07/09/17**

**Claimant: Respondent (1)**

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

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the July 25, 2017, reference 01, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits, based on an Agency conclusion that the claimant had been discharged on July 11, 2017 for no disqualifying reason. After due notice was issued, a hearing was held on August 18, 2017. Claimant Sabrina Quandt participated. Amanda Lange of ADP represented the employer and presented testimony through Christina Glogowski and Matthew Mercer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibits 1, 2, 4 through 7, 9 and 10 into evidence.

**ISSUES:**

Whether the claimant was discharged for misconduct in connection with the employment that disqualifies the claimant for unemployment insurance benefits.

Whether the employer's account may be charged.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Sabrina Quandt was employed by Copart of Connecticut, Inc. as a full-time Member License Processor/Customer Service Representative from 2013 until July 11, 2017, when Matthew Mercer, Customer Supply Operations Manager, discharged her from the employment for alleged insubordination. Ms. Quandt's immediate supervisor was Shaun Carlson, Office Supervisor. The employer is an online auto auction business specializing in wrecked vehicles. Parties bidding on the vehicles are located domestically and internationally. International buyers are required to be licensed and to have appropriate licensing documentation on file with the auction company to bid on vehicles. The international bidders were also required to have photo IDs and passports on file with the auction company. Ms. Quandt's regular duties involved processing dealer licensing and sales tax documents for international buyers located in Canada, Ghana, Guatemala and other countries the first letter of which fell within a particular range of the alphabet. The employer on occasion also required that Ms. Quandt process photo IDs and passports for her assigned countries. The employer did not ordinarily ask or require Ms. Quandt

to perform work outside her assigned countries. Ms. Quandt's work hours were 7:00 a.m. to 3:30 p.m.

The final incident that triggered the discharge occurred on July 10, 2017. On that day, Christina Glogowski, Office Manager, and Mr. Carlson met with Ms. Quandt as part of a regular performance review. Ms. Glogowski ran the meeting. Ms. Quandt had just returned to work from time off and was trying to get caught up on the work that had accumulated in her absence. Ms. Quandt was not happy about taking time away from her work duties for the meeting and indicated as much as the meeting got under way. During the meeting, Ms. Glogowski told Ms. Quandt that she needed Ms. Quandt to set aside some of her regular duties and spend two hours per day processing photo IDs for countries outside her assigned countries. Ms. Quandt was concerned that this would lead to an increased backlog in her regularly assigned work and failure to meet required performance metrics concerning that work. Ms. Glogowski told Ms. Quandt that the employer would factor in the change in priorities when reviewing performance metrics. Ms. Glogowski told Ms. Quandt that other staff would be making the same temporary change. Ms. Quandt told the employer that the proposed change was "not going to happen." Ms. Quandt was concerned not only about falling behind on her regular duties, but was also concerned about being required to process someone else's region of the world. Ms. Quandt believed that processing IDs from one of the affected regions was more difficult than processing IDs for Ms. Quandt's regularly assigned region. Ms. Quandt stated that she would need additional training on those regions. The employer replied that she could figure it out on her own. Ms. Quandt continued to refuse to comply despite Ms. Glogowski's statement that she was being insubordinate. When Ms. Quandt returned the next morning, she spoke with Mr. Carlson and proposed a compromise. Ms. Carlson proposed that she alter her regular duties by adding processing photo IDs for her assigned region, a task that was ordinarily assigned to others. Ms. Quandt's proposal came too late because the employer had already decided to discharge her from the employment. This incident was the only incident of its kind during the employment.

While the final incident triggered the discharge, the employer considered unrelated prior attendance issues when deciding to discharge Ms. Quandt from the employment. The most recent such incident occurred on June 26, 2017, when Ms. Quandt was absent due to illness, but provided late notice. On June 27, 2017, Ms. Glogowski met with Ms. Quandt to issue a reprimand. Ms. Quandt did not hide her displeasure with being reprimanded. Ms. Quandt asserted that she had called late because a previous supervisor would not answer her calls. During the meeting, Ms. Glogowski counseled Ms. Quandt on her attitude. Ms. Quandt displayed a defensive demeanor and asserted that she did not care. Ms. Quandt signed the reprimand and returned to her work duties. On May 2, 2017, Ms. Glogowski issued a reprimand to Ms. Quandt for returning late from lunch on seven occasions between April 10 and May 2, 2017. Ms. Quandt initially refused to sign the reprimand, but ultimately acquiesced after the employer told her she would be suspended and would have to draft a letter to the employer prior to her return.

## **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). When it is in a party's power to produce more direct and satisfactory evidence than is actually produced, it may fairly be inferred that the more direct evidence will expose deficiencies in that party's case. See *Crosser v. Iowa Dept. of Public Safety*, 240 N.W.2d 682 (Iowa 1976).

Continued failure to follow reasonable instructions constitutes misconduct. See *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). An employee's failure to perform a specific task may not constitute misconduct if such failure is in good faith or for good cause. See *Woods v. Iowa Department of Job Service*, 327 N.W.2d 768, 771 (Iowa 1982). The administrative law judge must analyze situations involving alleged insubordination by evaluating the reasonableness of the employer's request in light of the circumstances, along with the

worker's reason for non-compliance. See *Endicott v. Iowa Department of Job Service*, 367 N.W.2d 300 (Iowa Ct. App. 1985).

The weight of the evidence in the record fails to establish misconduct in connection with the employment within the meaning of the law. With regard to the final incident, the evidence establishes that the employer reasonably directed Ms. Quandt to alter her daily work activities to conform to a temporary change in the employer's priorities. The weight of the evidence establishes reasonable and unreasonable aspects to Ms. Quandt's refusal to comply with the directive. Ms. Quandt was reasonably concerned about the backlog of her work, especially since she had just returned from time off. Ms. Quandt was reasonably concerned about consequences for failing to meet performance metrics related to her regular duties, but the employer addressed this concern during the July 10 meeting. Ms. Quandt was reasonably concerned about having to perform the ID processing work for a region unfamiliar to her. The employer did not provide a reasonable response to that concern. Ms. Quandt's attitude, her gross lack of tact in voicing her concerns, was unreasonable. The fact that Ms. Quandt continued to think about the employer's directive and returned the next morning to continue the discussion and propose a compromise solution is a mitigating factor. In addition, the evidence does not establish a pattern of unreasonable refusal to follow reasonable directives. The only other incident that comes close is the initial refusal to sign the May 2, 2017 reprimand, but Ms. Quandt did eventually comply with the request to sign that reprimand. The evidence fails to establish a current act in connection with the attendance concern.

While the employer had legitimate concerns concerning Ms. Quandt's attitude, demeanor, and isolated refusal to acquiesce in a change to her work duties, Ms. Quandt's conduct did not rise to the level of willful and wanton disregard of the employer's interests that would disqualify her for unemployment insurance benefits. Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Quandt was discharged for no disqualifying reason. Accordingly, Ms. Quandt is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

**DECISION:**

The July 25, 2017, reference 01, decision is affirmed. The claimant was discharged on July 11, 2017 for no disqualifying reason. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs