

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINA K SCHLICHER
Claimant

APPEAL NO. 13A-UI-12035-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINEGARD COMPANY
Employer

**OC: 09/22/13
Claimant: Appellant (1)**

Section 96.5.2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant, Christina Schlicher, filed an appeal from a decision dated October 16, 2013, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 19, 2013. The claimant participated on her own behalf and was represented by Tim Liechty. The employer, Winegard, participated by Human Resources Manager Kerry Hale and Supervisors Steve Schuessler and Katie Reynolds.

ISSUE:

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

FINDINGS OF FACT:

Christina Schlicher was employed by Winegard from May 5, 1995 until September 26, 2013 as a full-time customer service representative (CSR).

On September 23, 2013, new requirements were put in place as far as what information would be required on the spreadsheet order forms. On September 24, 2013, Supervisor Katie Reynolds sent an e-mail to all the CSRs notifying them she would send back the forms to correct if she found any mistakes.

Shortly afterward she sent back some orders to Ms. Schlicher to correct. The claimant then came to the supervisor's desk to ask what was wrong. They discussed it and at one point the claimant said the whole new procedure was "fucking bullshit." The supervisor said she had a meeting to go to and they would discuss it when she got back. Ms. Reynolds then told another employee, Connie, she was leaving to go to a meeting and would be back later. Just as the door was closing Ms. Reynolds heard the claimant say, "Thanks for telling fucking all of us."

The supervisor went back into the room and told the claimant she did not care for her language or the disrespect she was displaying. Ms. Schlicher said, "then why don't you fucking fire me?"

Ms. Reynolds told her to take a break and went to her meeting. At that meeting she discussed the incident with Supervisor Steve Schuessler.

The next day Mr. Schuessler interviewed Ms. Schlicher and she admitted to making the comments to Ms. Reynolds. She claimed it was all because she was so stressed out and did not like the changes in the spreadsheets that had just started.

The claimant had been counseled twice before about inappropriate behavior, in January 2013, a customer had complained he had been called a liar by the claimant and she accused him of just making things up to "get away" with something. She had been counseled in April 2012 for tardiness, sleeping on the job and erratic performance.

On September 16, 2013, the claimant was discharged for inappropriate conduct.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 claimant was discharged for insubordination and profane language in the work place. This was not an isolated incident as she had received a prior warning due to a customer complaint. The final incident involved three separate outbursts of obscene language to the supervisor and in front of other employees on the calling floor. Other employees heard it and potentially so could customers if the phone lines were open.

The employer as the right to expect appropriate, professional conduct and language from employees in the performance of their jobs and interaction with other staff. The claimant's conduct was a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. She is disqualified. .

DECISION:

The representative's decision of October 16, 2013, reference 01, is affirmed. Christina Schlicher is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css