

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RACHELLE L BIXLER
Claimant

APPEAL NO: 15A-UI-04802-LDT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE PRINTER INC
Employer

OC: 03/22/15
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Rachelle L. Bixler (claimant) appealed a representative's April 20, 2015 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with The Printer, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 1, 2015. This appeal was consolidated for hearing with one related appeal, 15A-UI-04803-DT. The claimant participated in the hearing. Karen Michael appeared on the employer's behalf and presented testimony from one other witness, Frank Hampton. During the hearing, Employer's Exhibit One was entered into evidence. Based on the evidence, the arguments of the parties, a review of the law, and assessing the demeanor and credibility of the witnesses and reliability of the evidence in conjunction with the applicable burden of proof, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant discharged for work-connected misconduct?

OUTCOME:

Reversed. Benefits allowed.

FINDINGS OF FACT:

After a prior period of employment working with the employer through a temporary employment firm, the claimant started working for the employer on July 10, 1997. She worked full time as a digital operator in the employer's business doing printing for the casino industry. Her last day of work was March 26, 2015. The employer discharged her on that date. The reason asserted for the discharge was falsification of documentation.

The claimant was responsible for a run of coupons which ran in batches of 400. On March 24 the claimant started a batch run but used as the starting number the same number that the operator had started with on the shift that got off immediately prior to the start of the claimant's shift. As a result, when she got to the end of the batch, her numbers were off. She did not

realize what the source of the error was and believed that she had simply written a number incorrectly, and so made a modification on the job sheet. This actually compounded the error. Her supervisor also did not detect the source of the error. The persons who handled the job after printing did further verification and found the actual source of the error. The employer concluded that the claimant had made the modification to the job sheet intentionally to seek to cover up her mistake, and therefore determined to discharge her. The claimant had not received any prior discipline for any other issues.

REASONING AND CONCLUSIONS OF LAW:

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. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). The question is not whether the employer was right to terminate the claimant's employment, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. IDJS*, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what is misconduct that warrants denial of unemployment insurance benefits are two separate matters. *Pierce v. IDJS*, 425 N.W.2d 679 (Iowa App. 1988).

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. Rule 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. Rule 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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. Rule 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The reason cited by the employer for discharging the claimant is the modification she made to the job sheet. Misconduct connotes volition. *Huntoon*, supra. The administrative law judge is not persuaded that the evidence demonstrates that the claimant made the modification with the intent to conceal her mistake, as compared to with a good faith intent that she believed she was correcting the mistake. Although she did make an error in not correctly preventing or detecting the mistake on the job numbering, under the circumstances of this case, the claimant's error was the result of inefficiency, unsatisfactory conduct, inadvertence, or ordinary negligence in an isolated instance, and was a good faith error in judgment or discretion. The employer has not met its burden to show disqualifying misconduct. *Cosper*, supra. Based upon the evidence provided, the claimant's actions were not misconduct within the meaning of the statute, and the claimant is not disqualified from benefits.

DECISION:

The representative's April 20, 2015 decision (reference 01) is reversed. The employer did discharge the claimant but not for disqualifying reasons. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css