

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KAREN L MORRELL**  
Claimant

**DOLGENCORP LLC**  
Employer

**APPEAL 17A-UI-07746-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/09/17**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 26, 2017, (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on August 17, 2017. Claimant participated. Employer participated through district manager Terry Michels and store manager Tracey Freudenberger.

**ISSUES:**

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a part-time sales associate through July 6, 2017. Her last day of work was June 27, 2017. A month earlier asked for three days off on June 28, 29 and 30, for surgery and recovery. On her June 28 surgery date, she was instructed to make follow-up visit in a week. She spoke to Freudenberger and Michels separately on June 30 to notify them she would not be released to return to work until her next medical appointment on July 6, 2017. Each of them told claimant she must contact the company's leave office to obtain Family and Medical Leave Act (FMLA) leave approval and gave her the toll-free telephone number. Claimant called the leave office on the same day and was told the process would take 20 minutes. Claimant argued she could not provide the information requested but could not recall what information they wanted and did not call back. The employer's policy provides if an employee misses more than three days of work in a row they must request leave from the leave office. Claimant told Michels she did not agree with the employer's leave policy. She obtained a medical release at her July 6, 2017, appointment. By then Michels had not received e-mail verification from the leave department that claimant had cooperated with them so he called her on July 6 and terminated the employment.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5(2)a provides:

**Causes for disqualification.**

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.

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).

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990). The employer is entitled to establish reasonable work rules and expect employees to abide by them. The employer has presented substantial and credible evidence that claimant failed to contact the employer's leave office after having been instructed to do so several times. Her disagreement with the reasonable leave policy is not an excuse for failure to comply. This is disqualifying misconduct.

## DECISION:

The July 26, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until

such time as 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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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs