

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHANIE L OZIAH
Claimant

APPEAL NO. 11A-UI-16073-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEEF PRODUCTS INC
Employer

**OC: 11/13/11
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated December 8, 2011, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on February 20, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with her representative, Michael. Rick Wood participated in the hearing on behalf of the employer with witnesses, Jennifer Stubbs and Chrystal Steffen.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a quality assurance inspector from June 5, 2007, to November 17, 2011. On July 6, 2011, the claimant received a written warning for closing out a batch of products that was one box short on June 22, 2011. On July 15, the claimant received a second written warning for putting the wrong ID number on sample bags. The claimant had misread the number.

On November 17, the claimant was in charge of closing out a lot of products. There were supposed to be 35 boxes on the lot pallet. She noticed that there were only 34 box labels dispensed rather than the 35 needed. She asked operations to create a label for the 35 box and to change the lot number for the next lot of products. The claimant saw that the label had been created and expected it to be affixed to the correct box and dispensed to the correct pallet. She left to go to the lab where she had other work to do. For some reason, the box did not get on the correct pallet and one pallet was a box short and the other pallet had an extra box with an incorrect lot number. The claimant should have made sure the final box got on the pallet before going to the lab.

The employer discharged the claimant for her conduct on November 17 and her previous warnings for similar offenses.

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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

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. No willful misconduct has been proven in this case. I cannot conclude the acts of negligence during the last six months of the claimant's employment showed negligence of such a degree of recurrence that it equaled willful misconduct in culpability.

DECISION:

The unemployment insurance decision dated December 8, 2011, 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/pjs