

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KIMBERLY ALEXANDER**  
Claimant

**APPEAL NO. 08A-UI-07574-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IAC IOWA CITY LLC**  
Employer

**OC: 07-06-08 R: 03  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 12, 2008, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 4, 2008. The claimant participated in the hearing. Teresa Feldmann, Assistant Human Resources Manager and Cliff Anders, Human Resources Manager participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time injection operator for IAC Iowa City LLC from September 17, 2007 to June 30, 2008. On June 28, 2008, the claimant left her job to take her husband, also an employee, home because he was ill. She could not find her supervisor so she told a team leader and co-worker she was leaving and signed out as leaving due to lack of work. On June 30, 2008, the employer met with the claimant and she told them she left to take her husband to the hospital. The employer asked why she signed out as leaving due to a lack of work and the claimant could not provide a satisfactory response. The employer told the claimant that if she provided documentation from the emergency room it would reconsider its determination that the claimant quit by abandoning her job and the claimant provided a note dated June 30, 2008 (Employer's Exhibit One). Because the date did not match the date the claimant left early the employer concluded she voluntarily quit.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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.

While the employer maintains the claimant voluntarily quit by leaving early without permission from her supervisor June 28, 2008, the claimant returned to work after that date expecting to resume her position. A voluntary quit requires the intent to quit and in this case the claimant did not demonstrate the requisite intent to quit. Therefore, this separation will be treated as a discharge. The employer has the burden of proving disqualifying misconduct. 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). The claimant did leave early June 28, 2008, and while her husband was apparently ill that night the evidence establishes that they did not go to the emergency room until June 30, 2008. Additionally, the claimant could not provide a satisfactory explanation of why her husband signed out sick and she signed out as leaving early due to a lack of work. Under these circumstances the claimant's actions June 28, 2008, were inappropriate and unprofessional. That said, however, it does appear her husband was ill June 28, 2008, and she left to take him home and there is no evidence of any other incidents of the claimant leaving early without permission. Consequently, this was an isolated incident of misconduct and as such does not rise to the level of disqualifying job misconduct as defined by Iowa law. Therefore, benefits must be allowed.

**DECISION:**

The August 12, 2008, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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