

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MISTY L BASALDUA
Claimant

APPEAL NO: 10A-UI-10774-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPHERION STAFFING LLC
Employer

**OC: 5/16/10
Claimant: Appellant (2/R)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's July 27, 2010 decision (reference 02) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. A telephone hearing was held on September 16, 2010. The claimant participated in the hearing. Teresa Ray, the on-site manager, appeared on the employee's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in October 2007. The claimant had been working at HP as a line lead since June 2009.

As a result of a medical issue, the claimant went on a medical leave on May 15, 2010. The claimant did not know when her physician would release her to return to work. On June 10, 2010, the employer informed the claimant she had been released from the job at HP because she was unable to work as a result of her medical issue.

On June 11, 2010, the claimant's physician released her to work. The claimant called the employer and talked to Robert after she was released, but was told the employer did not have any work for her. The claimant received the name of an employee at another office to contact about a job. The claimant contacted this person, but this office did not have any work for the claimant either. The claimant did not go to the employer's office until August 6. She talked to Robert on August 6.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, an employer discharges her for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. The facts do not establish that the claimant quit her employer. She went on a medical leave, but she did not quit. The employer ended her job at HP on June 10.

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 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer ended the claimant's job assignment because she was unable to work and the client needed someone in her position. The employer established justifiable business reasons for ending the claimant's HP assignment, but the claimant did not commit work-connected misconduct. Instead, she was released because she was on a medical leave and was restricted from working. Since the claimant was released by her physician to return to work on June 1, as of June 13, 2010, the claimant is qualified to receive benefits.

During the hearing, the employer mentioned the claimant had declined an offer of work on August 6, 2010. This issue will be remanded to the Claims Section to investigate.

DECISION:

The representative's July 27, 2010 decision (reference 02) is reversed. The claimant did not voluntarily quit her employment. Instead, the employer ended her employment on June 10,

because she was on a medical leave and unable to work, which does not amount to work-connected misconduct. The claimant is qualified to receive benefits as of June 13, 2010, provided she meets all other eligibility requirements. An issue of whether the claimant refused an offer of suitable work on August 6 is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs