

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SHALON M KAPAYOU
Claimant

PRINCIPAL LIFE INSURANCE CO
Employer

APPEAL 14A-UI-12951-L
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/16/14
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 12, 2014, (reference 01) decision that denied benefits because of a discharge from employment. After due notice was issued, a hearing was held on January 14, 2015, in Des Moines, Iowa. Claimant participated. Employer opted not to participate.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time customer service analyst from October 2000 through November 13, 2014. Manager Melissa Norton had been supervisor for about two months and there had been three managers within the past year. She and manager Kim Simmons met with claimant and presented a list of things they wanted her to do and added new goals. Her signature would have meant that she agreed with and would follow the new goals. She disagreed because they were unreasonable, singled her out and the goals are unmeasurable and appeared to be based upon Norton's subjective opinion. The employer's policy and practice is to have goals that are specific, measurable, attainable, and realistic with a timetable (SMART). The due date was already past and Norton did not present a time frame. Claimant asked her to provide her more measurable goals and Norton declined to do so. Norton did not tell her that she would be discharged if she did not sign the document. The next day claimant was not scheduled and then received an overnight letter saying she was terminated before she could report to work the next scheduled day. Claimant had no prior warnings her job was in jeopardy for similar reasons. Employees are told if they receive positive feedback from the field to send it to their manager. Claimant sent a note indicating she had done a great job but Norton wanted her to put in comma here and period there in her original e-mail and resubmit it to her. Her performance evaluations were positive, she kept up with her heavy work load in a fast-paced environment, worked overtime as requested, and kept customers happy. She was only one of two (of ten) teammates that Norton asked to do that.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

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).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential

liability for unemployment insurance benefits related to that separation. With regard to the punctuation correction requirement, Norton appears to be pedantic in singling claimant out when the omission was merely related to the fast-pace of the heavy work load. While refusal to sign a disciplinary notice may be considered misconduct, in this situation, the directive was unreasonable as it did not meet the employer's own standards and the employer did not notify claimant she would be discharged for failure to do so. An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without fair warning, an employee has no reasonable way of knowing that there are changes that need be made in order to preserve the employment. If an employer expects an employee to conform to certain expectations or face discharge, appropriate (preferably written), detailed, and reasonable notice should be given. Training or general notice to staff about a policy is not considered a disciplinary warning. Benefits are allowed.

DECISION:

The December 12, 2014, (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. The benefits claimed and withheld shall be paid, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs