

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA A COPELAND
Claimant

APPEAL NO: 12A-UI-00537-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARKETLINK INC
Employer

OC: 12/11/11
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 12, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing. Amy Potratz, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in July 2010. As a result of on-going health issues, the claimant started working in September 2011 as a part time flexible telephone sales representative. When she started the flexible schedule, she agreed to give her supervisor every Friday a schedule of the days and hours she planned to work the next week. The claimant sometimes turned in a schedule of hours she planned to work the next week and sometimes she did not. The employer wanted to know when the claimant planned to work so the employer could plan or distribute work accordingly.

The claimant did not always turn in a schedule because her doctor sometimes called her at the last minute for tests or she was too ill to work. The employer was not concerned about the claimant not working the hours she said she would as long as the claimant notified the employer before her scheduled shift that she was unable to work as she had scheduled.

Since the claimant did not always turn in schedules on Friday for the next week, the employer gave the claimant a final written warning for this on December 2, 2011. The warning informed the claimant she would be discharged if she did not give her supervisor a schedule of the hours she planned to work the next week by every Friday. The employer wanted to put the claimant on notice that as of December 2, 2011, the employer required her to submit her work schedule and if she did not, she would be discharged.

The claimant did not submit the hours she planned to work the week of December 12. The claimant worked on Saturday, December 10, and knew she had several doctor's appointments the next week. The claimant did not provide the employer with a schedule for the days and hours she planned to work the week of December 12. The claimant did not call or report to work on December 12 and 13. On December 14 the claimant came to work. The employer then discharged her for failing to follow the employer's instructions about providing her supervisor with the days and hours she planned to work the week of December 12.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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 claimant understood the employer required her to submit a schedule of the days and hours she planned to work each week. Even though the claimant could not always work the hours she planned to work for health issues, she failed to follow the employer's instructions to submit the days and hours she at least intended to work. On December 2, the employer basically told the claimant she could no longer come and go as she pleased. Instead, the employer required her to let her supervisor know what days and hours she planned to work. On December 9 or 10, the claimant still did not provide her supervisor with the days and hours she planned to work the week of December 12. The employer again did not know when the claimant planned to work the following week.

The employer's directive - to provide her supervisor with the days and hours she planned to work the next week - was reasonable. Even though the claimant presented excuses for not following the employer's directive, she could have easily provided her supervisor with the days and hours she intended to work each week. Even if she was unable to work hours she indicated she would work, she simply had to give the employer advance notice she would not be at work as she had previously indicated. The claimant's failure to provide the employer with the hours she planned to work after she received the December 2 final written warning amounts to an intentional and substantial disregard of the employer's interests. The employer discharged the claimant for reasons constituting work-connected misconduct.

DECISION:

The representative's January 12, 2012 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of December 11, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs