

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBIN M BOYD
Claimant

MAIL HOUSE INC
Employer

APPEAL 18A-UI-09358-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/29/18
Claimant: Appellant (2)**

Iowa Code § 96.5(2) – Discharge for Misconduct
Iowa Admin Code r. 871-24.32 – Discharge for Misconduct

STATEMENT OF THE CASE:

Robin Boyd, Claimant, filed an appeal from the August 27, 2018, (reference 01) unemployment insurance decision that denied benefits because she was discharged from work with Mail House, Inc. for conduct not in the best interests of her employer. The parties were properly notified of the hearing. A telephone hearing was held on September 26, 2018 at 1:00 p.m. Claimant participated. Employer did not register for or participate in the hearing. Claimant's Exhibit A was admitted.

ISSUE:

Whether Claimant's separation was a discharge for disqualifying job-related misconduct.

FINDINGS OF FACT:

As claimant was the only witness, the administrative law judge makes the following findings of fact based solely upon claimant's testimony: Claimant was employed full-time by Mail House, Inc. from March 1, 2010 until her employment ended on July 26, 2018. Claimant's primary job duty was to meter mail. Claimant's work schedule was Monday through Friday from 8:00 a.m. until 5:00 p.m. Claimant's direct supervisors were Chris Shanahan, President, and Laura Shanahan, Vice President.

On July 26, 2018 after work hours, claimant received a telephone call from the company president, Chris Shanahan, who told claimant that she did not need to come to work the following day and stated, "I think we need to let you go." Claimant asked for an explanation; Mr. Shanahan told her that he was unable to discuss it with her. After further pressing by claimant, Mr. Shanahan told claimant that he received a complaint from an employee that claimant called the employee names. Claimant denied the allegation and said that she had not spoken to that employee all day. Mr. Shanahan also said that it was reported that claimant told a coworker that the coworker could leave for the day when claimant lacked the authority.

Claimant denied this allegation as well. Mr. Shanahan told claimant to come to the office the following day to collect her belongings.

Employer does not have an employee handbook. Claimant was never disciplined for misconduct of any type and knows of no other allegations of misconduct against her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged for no disqualifying reason. Benefits are allowed.

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 disqualification shall continue 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:

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 of misconduct has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); *accord Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000). Further, the employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

The record contains no evidence of misconduct. Employer has not met its burden of proof. Claimant was discharged for no disqualifying reason. Benefits are allowed provided claimant is otherwise eligible.

DECISION:

The August 27, 2018, (reference 01) unemployment insurance decision is reversed. Benefits are allowed if the claimant is otherwise eligible.

Adrienne C. Williamson
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Decision Dated and Mailed

acw/rvs