

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REBECCA S HALTERMAN
Claimant

APPEAL NO. 07A-UI-08246-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DELONG SPORTSWEAR INC
Employer

**OC: 07/22/07 R: 02
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Rebecca Halterman, filed an appeal from a decision dated August 20, 2007, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on September 12, 2007. The claimant participated on her own behalf and was represented by Attorney Corey Walker. The employer, Delong Sportswear, participated by Human Resources Manager Becky Harter, Office Manager Teresa Beal and Supervisor Laurie Kriegel.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Rebecca Halterman was employed by Delong Sportswear from July 14, 1998 until July 12, 2007, as a full-time pattern maker. She had received a copy of the employee handbook. One of the policies informs employees discharge may occur for safety violations.

On July 9, 2007, Office Manager Teresa Beal was picking up the claimant's time card when Ms. Halterman asked her why she had not been paid for the Independence Day holiday. Ms. Beal explained the company policy requires employees to work the entire day both before and the day after the holiday and the claimant had been absent for a few hours on July 5, 2007, without prior approval. The claimant became angry, saying "fuck" very loudly several times and she then threw her pattern knife on to her work table where it then bounced and landed on the floor some ten feet away.

Ms. Beal notified Human Resources Manager Becky Harter by e-mail immediately and discussed the incident with Plant Managers Mike Arment and Kevin Arment. The claimant continued to be so agitated that Supervisor Rich Magee told her to either calm down or go home. She calmed down enough to finish the last half hour of her shift. The next morning Ms. Harter received the e-mail shortly after she arrived at work at 8:00 a.m. and after reviewing

it and discussing it briefly with Ms. Beal, Mr. Magee was told to send the claimant home pending a fuller investigation.

Ms. Harter interviewed Ms. Beal about the incident and two other witnesses who confirmed the claimant had used the bad language and thrown her pattern cutting knife on her work table, and it then bounced some distance. The other witnesses also indicated it was not the first time the claimant had expressed her displeasure with the employer, the workplace, her job duties and co-workers by “yelling” and throwing things and using bad language.

The disciplinary action to be taken for safety violations is determined on a case-by-case basis. The employer’s decision to discharge was based on the possible severe consequences of throwing a sharp knife in the work area. In conjunction with her history of acting out forcefully she was determined to be a serious hazard and was discharged by Mr. Magee over the phone.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant argued that this was an isolated incident which caused her discharge but the record does not support that contention. She had acted out before, and possibly thrown things in the past, but the human resources person had never received any complaints from witnesses, and so was not able to issue any discipline. Whether or not it was an isolated incident, it is still misconduct. In order to be disqualified from unemployment benefits for a single incidence of

misconduct, the misconduct must be a deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees. Henry v. IDJS, 391 N.W.2d 731 (Iowa App. 1986). The employer has the obligation to provide a safe and harassment-free work environment for all employees and the claimant's conduct interfered with its ability to do so. Throwing an open knife, whether or not aimed at or intended for, a specific person, is a serious safety violation. This is a violation of the duties and responsibilities the employer has the right to expect of an employee.

Ms. Halterman also argued that her work-related injury, and the pain medication she was taking as a result, contributed to her inability to control herself in the situation and caused her to act out. This appears to be merely her personal opinion and was not supported by any documentation from a physician. Without something more specific the administrative law judge cannot accept her assessment that her conduct was caused by the medication.

The record establishes the claimant was discharged for conduct not in the best interests of the employer and she is disqualified.

DECISION:

The representative's decision of August 20, 2007, reference 01, is affirmed. Rebecca Halterman is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css