

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STACEY A FITZSIMMONS

Claimant

APPEAL NO: 12A-UI-14285-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP

Employer

OC: 10//28/12

Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 26, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge. The claimant participated in the hearing with Brian Ulin, a union representative. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant 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 August 2011. She worked full time as a production employee. Prior to October 16, 2012, a supervisor accused the claimant several times of doing something wrong. When the claimant went to the human resource department about these accusations, the employer concluded the supervisor's accusations could not be verified or supported.

On October 16, 2012, the claimant asked this same supervisor for help because the line the claimant worked on was backed up and product was falling on the floor. The supervisor brought in employees from another line to help. When the claimant went to her position on the line, the supervisor told her to throw ribs off the line and into barrels. He did not want her to go back to her position on the line. The employees who had been brought in to help could throw ribs into tubs, but could not do the claimant's job on the line. The claimant asked that these employees throw ribs into tubs. When the claimant tried to explain why she went back to her position on the line when product was falling on the floor, the supervisor argued with the claimant about not throwing ribs into tubs as he had told her to do.

The claimant and the supervisor went to the human resource department. While in the human resource department, the two argued about the supervisor's previous accusations against the claimant. The employer discharged the claimant on October 16, 2012, for failing to follow a supervisor's directive – to throw ribs into tubs instead of going back to her position on the line.

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. 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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Before a claimant can be discharged for failing to follow a supervisor's directive, the directive must be reasonable. The evidence indicates this supervisor's directive was not reasonable because the claimant was more useful at her position on the line than throwing ribs into tubs. Employees the supervisor brought in to help on the line could throw ribs into tubs but were not qualified to work on the line. This supervisor made accusations against the claimant before that the employer could not substantiate. Based on the testimony presented during the hearing, the supervisor did not give the claimant a reasonable directive. While the claimant did not follow his instructions, she did not commit work-connected misconduct. As of October 28, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's November 26, 2012 determination (reference 01) is reversed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of October 28, 2012, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs