

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KATHEY S REYNAGA**  
Claimant

**APPEAL NO: 13A-UI-01218-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TPI IOWA LLC**  
Employer

**OC: 01/29/12**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated January 22, 2013, reference 01, that held she was discharged for misconduct on December 28, 2012, and benefits are denied. A telephone hearing was held on March 4, 2013. The claimant participated. Danielle Williams, HR Coordinator, participated for the employer. Employer Exhibit 1 was received as evidence.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: Claimant worked for a 90-day period through a temp agency for the employer before she began employment on January 25, 2010. She last worked for the employer as a full-time production employee on December 28, 2012.

The employer issued verbal warnings to claimant on March 7 for smoking on the property and it counseled her about inappropriate offensive comments the following day. She was issued a written warning for inappropriate and offensive comments on May 22. Claimant voiced her disagreement with being moved to a different work team. The next day she objected to taking an information sheet from her shift leader saying, "I don't have time for that shift I'm working." She signed for the receipt of the warning.

The employer issued claimant a final (last chance) written warning on October 4 with a disciplinary suspension for inappropriate behavior. She was heard making statements to co-workers like "don't believe everything they tell you" (meaning the employer) and "listen to me not your team leader." Claimant refused to sign for the receipt of the warning.

On December 27 claimant was issued an excessive break warning by her shift leader and she refused to sign for it. Later the next day, she was overheard complaining about the discipline to

co-workers that caused a work slowdown on the production line. The employer discharged claimant for her disruptive behavior in light of prior discipline.

**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 administrative law judge concludes the employer has established claimant was discharged for misconduct in connection with employment on December 28, 2012.

Claimant failed to sign for two written disciplines that is misconduct as a matter of law. After the most recent one on December 27 she complained to the point it caused workplace production issues. Job disqualifying misconduct is established in light of the disciplinary history coupled with the recent incidents.

**DECISION:**

The department decision dated January 22, 2013, reference 01, is affirmed. The claimant was discharged for misconduct on December 28, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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