

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALISON M MARSHALL
Claimant

APPEAL NO. 10A-UI-01430-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QUALITY EGG LLC
Employer

**Original Claim: 12/20/09
Claimant: Appellant (2)**

Section 96.5-2 – Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's January 22, 2010 decision (reference 01) that concluded she was not qualified to receive benefits, and the employer's account was exempt from charge because the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. A telephone hearing was held on March 8, 2010. The claimant participated in the hearing. John Glessner, a manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on July 3, 2006. The claimant worked full-time in payroll and personnel. Her brother-in-law, Peter DeCoster, supervised her.

In September 2009, the claimant told DeCoster she was not happy with her job because of some of the supervisors and the hiring process. DeCoster asked if it would be all right to review the situation in 30 days. The claimant agreed. In early November, the claimant and DeCoster again talked about the issues she had with her job. She indicated nothing had changed and the employer should start to train another person to do payroll. DeCoster agreed the claimant could start training another employee. He also offered the claimant a position in quality control. She asked him for time to think about this.

In November, the claimant started training B., who was reluctant to do to the payroll because she had not done it for several years and the employer had a system that B. had not previously worked with. The claimant found B. somewhat reluctant to learn the employer's payroll system.

In November, Glessner was at the facility on a regular basis. The claimant understood Glessner had the same position in Ohio that DeCoster had in Iowa. The claimant also understood that

Glessner was helping the employer with the budget and that he was in charge of sales and marketing.

In December, the claimant told DeCoster she was not interested in working in quality control. He then offered her a job to cross train in accounts receivable and to work with the feed mills. On December 18, the claimant declined this position. The claimant did not intend to quit until she found another job or the employer had no more projects for her to do. As of December 21, the claimant had contacted two potential employers, but learned they were not interested in hiring anyone until 2010. In mid-December the claimant was not actively looking for other employment.

On December 21, DeCoster gave the claimant projects to do. The claimant thought these projects would take at least two or more weeks to complete. Later on December 21, Glessner told her that as a result of the budget, this would be her last day of work. When the claimant expressed doubt that B. was fully trained to do payroll by herself, Glessner indicated B. had enough training and was capable of doing payroll herself. Glessner also told the claimant that DeCoster had been asked to talk to the claimant the week before to let the claimant know she would not have a job after December 21, 2009.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer has discharged her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a.

This case is a classic example of problems that occur when a supervisor is a family member. The facts establish the claimant was not happy with her job in payroll and personnel. While, the claimant planned to look for another job after she declined other jobs the employer talked to her about, she did not submit her resignation and the employer NEVER asked the claimant when her last day of work would be. The claimant understood that when she found another job, she would give the employer adequate notice, or the employer would give her adequate notice when the employer did not have any more work for her to do.

Glessner, a manager from Ohio, decided B. had been trained long enough and was ready to do payroll. Glessner was also in charge of the budget. As a result of cost control measures, he made a unilateral decision that December 21 would be the claimant's last day of work. On December 21, the employer initiated the claimant's employment separation and discharged her.

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).

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).

When the employer ended the claimant's employment, there is no evidence that she committed any work-connected misconduct. Instead, the employer discharged her because the employer knew she was planning to quit. The claimant did not indicate when her last day of work would be and the employer did not ask her when her last day of work would be. As a way of cutting costs, the employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of December 20, 2009, the claimant is qualified to receive benefits.

DECISION:

The representative's January 22, 2010 decision (reference 01) is reversed. The claimant did not voluntarily quit her employment. Instead, the employer discharged her for reasons that do not constitute work-connected misconduct. As of December 20, 2009, 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/kjw