

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBORAH A MONTHEI
Claimant

APPEAL NO. 11A-UI-00038-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NAPA AUTO PARTS
Employer

OC: 06-27-10
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 23, 2010, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on March 28, 2011. The claimant did participate and was represented by Sasha L. Monthei, attorney at law. The employer did participate through Tom Meskan, store manager. Employer's Exhibit One was entered and received into the record.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer or was she discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an inventory control worker, full-time, beginning September 9, 2010, through October 10, 2010, when she was discharged.

The claimant was taken off work on September 28 by her physician after the lifting she was required to perform on September 27 caused her to strain her back. On September 30 she gave the doctor's note to her supervisor, Tom Meskan, that took her off work indefinitely. The claimant never told Mr. Meskan or anyone else that she wanted to quit the job. She wanted to continue working performing the sit-down paperwork portion of the job, but was not allowed to do so. On October 3, Mr. Meskan called the claimant and told her that October 10 would be considered her last day of work after she finished training her replacement. The claimant returned to work on October 4 and trained her replacement until her last day on October 10, 2010. The claimant's back injury was caused by the work she was required to perform for the employer. The claimant currently has work restrictions but is able to work within her work restrictions.

The exit interview form was filled out by the claimant's supervisor. It was he who indicated that the claimant was voluntarily quitting her employment, not the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason.

Iowa Code § 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.

At least for the purposes of unemployment compensation benefits, the administrative law judge determines that the claimant's back injury was related to the work she performed for the employer. When she was given light-duty work restrictions, the employer refused to accommodate those restrictions and told the claimant she would be required to train her replacement. The claimant did not voluntarily quit her employment but was discharged by the employer when they would not allow her to continue working, despite the work-related nature of her injury. The claimant's injury was not intentional and is not job-connected misconduct. As such, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The December 23, 2010 (reference 02) decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw