

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LASANDRA P VAUGHN
Claimant

APPEAL NO. 18A-UI-08317-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL KITCHEN SOLUTIONS INC
Employer

OC: 12/17/17
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Lasandra Vaughn (claimant) appealed a representative's July 31, 2018, decision (reference 04), that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Cargill Kitchen Solutions, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 24, 2018. The claimant participated personally. The employer participated personally. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 8, 2018, as a full-time processing team member. She signed for receipt of the employer's handbook on May 11, 2018. The employer did not tolerate harassment such as threats on company property. The employer did not issue the claimant any warnings during her employment.

On July 8, 2018, the claimant was pulled over by law enforcement because her tags were missing from her car. She believed someone removed them while her car was parked at work. Also on July 8, 2018, a member of management posted comments about the claimant on social media.

On July 9, 2018, the claimant reported the incidents to the employer. The sister of the member of management worked for the employer through a temporary agency. The sister said something to the claimant during her shift that made the claimant angry. The claimant asked her to leave her alone. The sister tapped her on her shoulder. The claimant became so angry that she had to leave the work area and go to the locker room.

In the locker room the claimant was crying and talking to a co-worker. The sister entered the room and said something. The claimant did not look at the sister or talk to the sister. The

claimant told the co-worker that the sister should stay out of the conversation, leave her alone, and stop “fucking” with her. The claimant told the co-worker, “I’m going to go outside before I punch her in the face”. The interaction was reported to the employer. The employer placed the claimant on paid suspension on July 9, 2018. On July 16, 2018, the employer terminated the claimant for making threatening comments on company property.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual’s wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep’t of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The claimant clearly disregarded the standards of behavior which an employer has a right to expect of its employees. The claimant’s actions were volitional. She intentionally used threatening words on company property.

The claimant admits making the statement but argues that because she did not look at, face, or speak directly to the sister, she did not threaten the sister. It does not matter which way the claimant looked or if she had her eyes closed. It is clear the person she was threatening to punch in the face was the sister. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. The claimant was discharged for misconduct.

DECISION:

The representative's July 31, 2018, decision (reference 04), is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/scn