

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DLYNN R EVERS
Claimant

APPEAL NO. 12A-UI-01919-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

4 PAWS UNLEASHED INC
Employer

OC: 01/08/12
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated February 13, 2012, reference 01, that concluded the claimant's discharge for work-connected misconduct. A telephone hearing was held on March 13, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Corrine Priebe participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a dog groomer for the employer from March 2009 to January 11, 2012. Amber Johnson was her supervisor.

Dog grooming services included bathing, drying and brushing out the dogs. The claimant became frustrated because on two days in a row, staff gave dogs back to their owners before the claimant had finished brushing them. On January 2, the claimant had put the dog back to let it dry and was working on another dog. She went back to brush the dog and the dog was gone. She asked Johnson where the dog was and she said the owner had picked it up. When she told Johnson that the dog was not done, Johnson responded that the owner did not seem to mind. The claimant was not happy because the owner had been charged for a full grooming but she dropped the issue.

On January 3, the claimant agreed to come in on her afternoon off to groom two dogs. After bathing the dogs and putting them out in the dog runs to dry, the claimant had to leave for a short time to pick up her son from school. When she returned, she again discovered the dogs had been given back to their owner without her getting to brush them. She was upset that the customers were charged for an incomplete grooming. She became frustrated and said she was done and was quitting. She did not intend to quit when she left, she just was blowing off steam.

The claimant reported to work the next day and was allowed to continue to work. Later that day, Johnson approached the claimant and asked what could be done to prevent the problems from the previous days. The claimant expressed her frustration with the dogs being checked out and customers charged for a half-finished grooming. She suggested the employer was not concerned in customer service. They exchanged words for a short time, and then Johnson left. The claimant did not raise her voice at Johnson or use bad language toward her.

On January 11, 2012, the employer discharged the claimant for her conduct toward Johnson, which was considered insubordinate.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

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 substantial and 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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. No willful and substantial misconduct has been proven in this case. The claimant expressed a legitimate frustration and concern about what had happened on January 2 and 3. Based on the evidence presented, I cannot conclude this was disqualifying misconduct as defined by the unemployment insurance law.

DECISION:

The unemployment insurance decision dated February 13, 2012, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs