

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBBIE D ECKHARDT**  
Claimant

**APPEAL NO: 10A-UI-10513-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC**  
Employer

**OC: 06/20/10  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Debbie D. Eckhardt (claimant) appealed a representative's July 19, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with L A Leasing, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 10, 2010. The claimant participated in the hearing. Colleen McGuinty appeared on the employer's behalf and presented testimony from one other witness, Sharon Hagedorn. 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:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The employer is a temporary employment firm. The claimant's sole assignment through the employer began on March 17, 2009. She worked full time as event coordinator for the employer's Cedar Falls, Iowa museum facility business client. Her last day on the assignment was June 18, 2010. The assignment ended because the business client became upset with the claimant's handling of some reception arrangements and her unavailability to address problems which arose regarding a reception on June 19. The employer informed the claimant of the ending of the assignment on June 21.

The business client had raised some question about the claimant's job performance in discussions with the claimant which occurred on June 11. On June 19 there was a wedding reception planned at the client's facility. However, on that day it became apparent that the arrangements for staffing and serving had not been arranged for the proper time (off by about an hour) and there had not been adequate arrangements made for lights, the keg price had not been prepaid and there had been no back-up kegs ordered, the white wine had not been cooled, and the staff had not been alerted to obtain cocktail napkins.

The claimant had been having some health issues, and on the afternoon of June 18 she had gone to a hospital emergency room in Iowa City. She was released but was ordered on bed rest for 24 hours. That evening she alerted the business client that she would not be at work the following day for the reception. As a result, she was not present at the facility on June 19 in order to assist in making final arrangements for the reception and was not available to deal with the problems that arose during the reception. Because of this final issue after the prior job performance concerns, the business client determined to end the claimant's employment in the position.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). The question is not whether the employer was right to terminate the claimant's employment, but whether the claimant is entitled to unemployment insurance benefits. Infante v. IDJS, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what is misconduct that warrants denial of unemployment insurance benefits are two separate matters. Pierce v. IDJS, 425 N.W.2d 679 (Iowa App. 1988).

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; Huntoon, supra; Henry, supra. In contrast, 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. 871 IAC 24.32(1)a; Huntoon, supra; Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

The reason cited by the employer for discharging the claimant is unsatisfactory job performance. Misconduct connotes volition. A failure in job performance is not misconduct unless it is intentional. Huntoon, supra. While there were clearly job performance issues relating to the reception on June 19, the claimant's failure to have the preparations properly in order and her unavailability to address the problems which arose on June 19 were directly related to the medical issues from which she had been suffering and which resulted in her being unable to work on June 19. Work conduct or performance issues are not intentional and cannot be misconduct where the problems are attributable to a bona fide medical condition, because health issues which plainly interfere with proper work performance are not volitional, even if the employer was fully within its rights to discharge the claimant for the resulting unsatisfactory result. Cosper, supra.

The employer has not met its burden to show disqualifying misconduct. Cosper, supra. Based upon the evidence provided, the claimant's actions were not misconduct within the meaning of the statute, and the claimant is not disqualified from benefits.

**DECISION:**

The representative's July 19, 2010 decision (reference 01) is reversed. The employer did discharge the claimant but not for disqualifying reasons. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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