

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA V VIVAS
Claimant

APPEAL NO: 14A-UI-10692-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMLAND FOODS INC
Employer

OC: 09/14/14
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Jessica V. Vivas (claimant) appealed a representative's October 9, 2014 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Smithfield Farmland Corporation, formerly known as Farmland Foods, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 4, 2014. This appeal was consolidated for hearing with one related appeal, 14A-UI-10691-DT. The claimant participated in the hearing. Terry Vrieze appeared on the employer's behalf. Ana Cox served as interpreter. 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?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer on July 24, 2012. She worked full time as a production employee at the employer's Denison, Iowa facility. Her last day of work was September 16, 2014. The employer discharged her on that date. The stated reason for the discharge was falsification of documentation.

The claimant had been absent for some time prior to and including September 15. On September 16 she came in with a doctor's note which indicated that the claimant would be able to return to work on September 16. However, the employer observed that the doctor's note appeared to have been altered from originally saying she could return to work on September 15, to saying she could return to work on September 16. The employer then checked with the

doctor's office, and learned that the note as issued by the doctor had in fact said the claimant could return to work on September 15. When the employer questioned the claimant about the alteration, she admitted that she had altered the note. Her reason for doing so was that she was feeling stress and pressure from the job and did not wish to return to work on September 15. As a result of the claimant's falsification of documentation turned into the employer to justify an absence, the employer discharged the claimant.

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); Iowa Code § 96.5-2-a.

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. Rule 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. Rule 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. Rule 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's alteration of the doctor's note meant to verify her bona fide absence from work shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

DECISION:

The representative's October 9, 2014 decision (reference 02) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of September 16, 2014. This disqualification continues until the claimant has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs