

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MALISA TAYLOR
Claimant

APPEAL NO: 14A-UI-00881-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS DEVELOPMENT
Employer

OC: 12/29/13
Claimant: Appellant (2)

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Malisa Taylor (claimant) appealed an unemployment insurance decision dated January 17, 2014, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Genesis Development (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 14, 2014. The claimant participated in the hearing. The employer participated through Crystal Castillo, Residential Manager.

ISSUE:

The issue is whether the employer discharged the claimant for work-related misconduct.

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 employed as a part-time certified medication aide from July 1, 2009, through January 23, 2013, when she was discharged because she was medically unable to work. Her last day of work was December 31, 2012, after which she went on medical leave to have surgery. The claimant did not qualify for leave under the Family Medical Leave Act because she had not worked enough hours. She had not been released to return to work on January 23, 2013. The employer discharged her because she had purportedly exhausted her sick leave and vacation, but the claimant testified that she received a payout after her termination for sick leave and vacation hours she had accrued.

At the time of her separation, her medical condition was considered non-work-related by the employer. The claimant testified that she had reported a work-related injury but it had not been properly reported by the person to whom she reported it. There may have been a subsequent determination that the injury was work-related but since that was not known by the employer at the time of the separation, it was not a factor they relied upon when making their decision to terminate.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. All terminations of employment are generally classified as layoffs, quits, discharges or other separations. 871 IAC 24.1(113)(a). A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer or an employer has discharged the claimant for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

The evidence establishes the employer believed the claimant was unable to work due to a non-work-related medical condition. When an employee is unable to work and does not return to work due to a non-work-related medical condition, the separation is typically considered to be a voluntary quit without good cause attributable to the employer. Benefits are then denied until the claimant completely recovers and returns to offer her services to the employer. However, in the case herein, the employer took the first step and discharged the claimant for the same reasons. When the employer initiates a separation, the reasons must constitute work-connected misconduct before a claimant can be denied unemployment insurance benefits. The claimant's separation from employment was not due to any misconduct on her part nor did she quit her job. The claimant is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated January 17, 2014, reference 01, is reversed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs