

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SONYA D JONAS**  
Claimant

**APPEAL NO: 15A-UI-01015-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEARZ CONCRETE INC**  
Employer

**OC: 12/07/14**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 12, 2015, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 18, 2015. The claimant participated in the hearing. Toni Haefs, Owner/Office Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time administrative assistant for Bearz Concrete from March 19, 2014 to December 4, 2014. She was discharged after purchasing safety posters without the consent of the owner.

On December 3, 2014 the employer learned the claimant approved the purchase of safety posters in the amount of \$800. The claimant received a phone call from the poster manufacturer stating there had been changes to the minimum wage and family and medical leave laws. The claimant tentatively ordered the posters conditioned upon the salesperson sending her an email confirmation that she could show the employer. Owner Berry Haefs learned of the situation that evening from his wife, Owner/Office Manager Toni Haefs, who overheard the phone call and instructed the claimant to notify Mr. Haefs. After Mr. Haefs heard about the incident he called the claimant and told her she needed to come in the following day, even though it was her day off, to insure the order was cancelled and the claimant did so. The employer then notified the claimant her employment was terminated.

In April/May 2014 the claimant made a bookkeeping error and did not send an invoice to a customer in a timely manner and consequently the employer was not paid on time. In November a large credit account was almost closed because the claimant had not made a payment in 90 days. The situation was remedied however and the company did continue

extending credit to the employer. On another occasion the employer talked to the claimant about billing and paying invoices on time after the claimant did not pay \$1000 in interest payments to the bank every month because she did not think the employer had the money to do so.

The employer determined the claimant did not had the qualifications it needed and although it did not believe the claimant did anything intentionally wrong and agreed some issues could have been miscommunications or misunderstandings, it terminated her employment December 4, 2014.

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

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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 proving disqualifying misconduct. 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).

While the claimant did not perform to the employer's expectations, her errors were not willful or intentional misconduct but rather appeared to be due to a lack of knowledge, miscommunications or misunderstandings. Additionally, the employer never warned the claimant it was unhappy with her performance and the claimant performed her job to the best of her ability without any knowledge her job was in jeopardy. Under those circumstances, the administrative law judge must conclude the claimant's actions do not rise to the level of disqualifying job misconduct as that term is defined by Iowa law. Therefore, benefits must be allowed.

**DECISION:**

The January 12, 2015, reference 03, decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

---

Julie Elder  
Administrative Law Judge

---

Decision Dated and Mailed

je/can