

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA J PRICE
Claimant

APPEAL NO: 12A-UI-14771-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

OC: 04/01/12
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 5, 2012 determination (reference 02) that held the claimant qualified to receive benefits as of November 12, 2012, because she had been discharged for nondisqualifying reasons. The claimant participated in the hearing. Brad Duffy, the general manager, and Shauna Schroeder appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on May 10, 2012. The employer initially hired her to work as a temporary part-time receptionist. After the three months, the employer offered her a full-time job as a sales person. This job started on July 16, 2012.

After the claimant started the sales position, she tried to meet her sales goals, but could not. The claimant did not know there was any problem with her job performance until she attended a four-day training session in early October. The employer assumed the claimant's sales would increase after she had some training.

The employer knew the claimant tried to meet her sales goals. The claimant contacted current businesses to see if the employer could provide any additional services, she made cold calls and even contacted her personal friends who had indicated potential interest in the employer's services. The claimant worked with another account representative to learn how to do her job. When the claimant's sales did not increase, the employer ended her employment on November 13, 2012.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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 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 law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer discharged the claimant for justifiable business reasons. Even though the claimant tried to meet her sales goals, she did not. The employer ended the claimant's employment because her performance was unsatisfactory. The evidence does not establish that the claimant committed work-connected misconduct. As of November 11, 2012, the claimant is qualified to receive benefits.

If the claimant establishes a new benefit year and the employer is one of her base period employers, the employer's account at that time could be charged.

DECISION:

The representative's December 5, 2012 determination (reference 02) is affirmed. The employer discharged the claimant for unsatisfactory work performance, not work-connected misconduct. As of November 11, 2012, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/tll