

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN L PETERSEN
Claimant

APPEAL NO: 12A-UI-10509-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRAPHIC EDGE INC
Employer

OC: 07/22/12
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's August 23, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had been discharged for nondisqualifying reasons. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in March 2012. She worked full time doing pre-screen or set-up work from 3:30 p.m. to 2:00 a.m.

The claimant understood that if she was unable to work her shift or had to leave work early, she must contact a supervisor or the person in charge of her area. The claimant's supervisor went home at 5:00 p.m. During her employment when the claimant could not find a supervisor she told Casey, a lead person employer, when she had to leave work early. The employer did not warn her that telling Casey when she left work early violated the employer's policy.

On July 3, the claimant left work early because she became sick at work. The claimant had a sinus infection and missed at least one more day of work. On July 16 and 17 the claimant notified the employer she was unable to work as scheduled because her mother-in-law had a medical emergency and was in a Des Moines hospital. The claimant went to Des Moines to be with her mother-in-law both days.

When the claimant returned to work on July 18, the employer talked to her to find out if she was all right or healthy to work again. The claimant had no understanding during this conversation

that the employer had any concerns about her attendance or that she failed to notify the proper person when she had to leave work early.

Around 7:30 p.m., the claimant became sick at work. She looked for a supervisor to talk to before she left work. When she could not find a supervisor, she told Casey she was leaving work because she was ill. The claimant understood Casey told her it was okay for her to leave. The employer discharged the claimant because she left work early on July 18 and failed to properly notify a supervisor she was leaving.

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 law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

The facts establish the claimant had no understanding her job was in jeopardy or that she was not allowed to report to the lead person that she had to leave work early when she could not find a supervisor. The employer may have had justifiable business reasons for discharging the claimant. The evidence does not establish that the claimant had excessive unexcused absenteeism and she did not commit work-connected misconduct. As of July 22, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's August 23, 2012 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of July 22, 2012, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs