

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MONICCA M GOSWICK**  
Claimant

**APPEAL NO. 11A-UI-12967-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APAC CUSTOMER SERVICES OF IOWA**  
Employer

**OC: 08/28/11**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(8) – Current Act of Misconduct

**STATEMENT OF THE CASE:**

Monicca M. Goswick filed a timely appeal from an unemployment insurance decision dated September 22, 2011, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held October 24, 2011 with Ms. Goswick participating. Although the employer provided the name and telephone number of a witness, the number was answered by a recording at the time of the hearing. There was no further contact from the employer.

**ISSUE:**

Was the claimant discharged for disqualifying misconduct?

**FINDINGS OF FACT:**

Monicca M. Goswick was employed by Apac Customer Services of Iowa from January 14, 2008 until she was discharged August 29, 2011. She last worked as a team leader. The final incident leading to discharge occurred on August 28, 2011. Ms. Goswick left work abruptly due to a medical condition. There was no one in management or in human resources on duty that Sunday for her to notify.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with the employment. It does not.

Iowa Code section 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.

871 IAC 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.

The employer has the burden of proof. See Iowa Code section 96.6-2. As noted above, the employer did not participate in the hearing. The claimant's testimony persuades the administrative law judge that the final incident leading to the discharge was not an act of misconduct. No disqualification may be imposed.

**DECISION:**

The unemployment insurance decision dated September 22, 2011, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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