

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORI A RINGWALD
Claimant

APPEAL NO: 15A-UI-01218-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BHFO INC
Employer

OC: 01/19/14
Claimant: Respondent (2)

Iowa Code § 96.5(2) – Discharge
Iowa Code § 96.3(7) – Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's January 23, 2015 determination (reference 05) 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 at the February 23 hearing. Laurie Jaeger, the human resource director, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUES:

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

Has the claimant been overpaid benefits she received since January 4, 2015?

If the claimant has been overpaid, is she responsible for paying back the overpayment or will the employer's account be charged for the overpayment?

FINDINGS OF FACT:

The claimant started working for the employer on August 11, 2014. The claimant worked as a full-time customer service associate. The employer requires customer service associates to obtain a manager's authorization when a customer asks to return merchandise outside the employer return guidelines.

On January 6, 2015, the claimant took a call from a customer who wanted to return merchandise that was beyond the employer's return of merchandise guideline. On the notes employees make on a customer's account, she noted a supervisor had granted authorization for the customer to return the merchandise so the customer could receive a refund. The supervisor had not granted authorization to return this merchandise.

The next day, January 7, 2015, a supervisor noticed a return had been granted that was beyond the return guidelines. Even though the claimant's notes indicated the supervisor had approved the return, the supervisor had not. When the supervisor talked to the claimant, she understood the claimant initially had not said anything about this transaction because she assumed she would get into trouble. Later, the claimant indicated she had become confused between two customers and reported information on the wrong customer's notes. The claimant could not identify the other customer. Prior to this incident, the claimant had been very proficient and did not have any similar problems.

On January 8, 2015, the employer discharged the claimant for falsifying a business record and for failing to be honest with a supervisor. The claimant had a high level security access and when she recorded information that was not correct, falsification on a business record, the employer no longer trusted the claimant. When the employer investigated, the employer discovered no customer the claimant could have confused with the customer she gave an unauthorized refund to. The claimant did not identify the customer she believed she had confused.

The claimant established a claim for benefits during the week of January 19, 2014. She reopened this claim during the week of January 3, 2015. She filed a claim for the week ending January 17 and received \$374 in benefits for this week. She established a new benefit year during the week of January 18, 2015. She filed claims for the weeks ending January 24 through February 28, 2015. She received her maximum weekly benefit amount of \$347 for each of these weeks. The employer participated at the fact-finding interview.

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 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).

While the claimant could have made a mistake as she asserted, it is difficult to accept this explanation when she had not made similar mistakes, she could not identify the other customer, and a manager initially understood the claimant said that she thought she would be in trouble if she reported she had recorded incorrect information. Even if the claimant confused two customers, she failed to correct the problem in a timely manner. Under the facts of this case, the claimant's failure to report she made a mistake amounts to an intentional and substantial disregard of the employer's interests. The employer discharged the claimant for reasons amounting to work-connected misconduct. As of January 4, 2015, the claimant is not qualified to receive benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3(7). Based on this decision, the claimant is not qualified to receive benefits as of January 4, 2015. She has been overpaid a total of \$2456 in benefits she received for the weeks ending January 17 through February 28, 2015.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3(7)a, b. The employer participated at the fact-finding interview. As a result, the claimant is responsible for paying back the \$2456 overpayment.

DECISION:

The representative's January 23, 2015 determination (reference 05) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. As of January 4, 2015, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

The claimant has been overpaid \$2456 in benefits she received for the weeks ending January 17 through February 28, 2015. The claimant is legally responsible for paying back this overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs