

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANNON J FRAZIER
Claimant

APPEAL NO. 08A-UI-11319-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRUE VALUE HARDWARE & RENTAL INC
Employer

**OC: 11/09/08 R: 03
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 26, 2008, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on December 16, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Zeke Chafa participated in the hearing on behalf of the employer. Exhibits A through C were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a cashier and stock person for the employer from August 4, 2008, to November 9, 2008. The claimant was absent from work on November 5, 6, and 7, 2008, due to a mental health issue regarding her 15-year-old daughter and was excused by a doctor from work on these days. The claimant was concerned about her daughter's safety and wellbeing and no one else was available to stay with her during the day. The claimant notified the employer regarding her absences.

When the claimant reported to the store on November 7 to pick up her paycheck, the store manager informed her that they needed someone more dependable and were letting her go.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. The claimant was absent from work due to legitimate reasons and was excused from working by a doctor. She notified the employer regarding her absences.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated November 26, 2008, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css