

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HERLINDA O CORONA
Claimant

APPEAL NO. 07A-UI-10617-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

**OC: 10/21/07 R: 02
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated November 9, 2007, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on December 4, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of interpreter, Patricia Verploeg Vargas. Tonya Box participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a production laborer for the employer from April 2, 2000, to October 23, 2007. Her supervisor was Don Paul.

On October 2007, the claimant was assigned the job of trimming heads. On the morning of October 23, 2007, the claimant was working in her job but the products were stacking up because she was having a hard time keeping up. Paul came over to where the claimant was working and started yelling at her. He told her to do a different job, which the claimant did. She was having problems keeping up with the second job as well. At that point, Paul yelled at her to leave the line.

The claimant did as she was instructed and left the production area and went to the human resources office. When she reached the human resources office, Paul had already told the human resources assistant, Tonya Box, his version of what had happen, in which he claimed the claimant refused to do the job she was assigned. Based on what Paul had said, Box told the claimant that if she was not going to do her assigned job, she was not needed. The claimant reasonably believed that she was being discharged and started to leave the office. Box then asked her to turn in her company identification.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant's testimony that she did not refuse to perform her assigned job and Paul told her to leave the line because he was dissatisfied with the claimant's job performance. Finally, there may have been a language breakdown, but I am convinced that the claimant did not intend to quit her job and reasonably understood that she was no longer needed.

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 substantial and 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 employer discharged the claimant but not for work-connected misconduct as defined by unemployment insurance benefits. No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated November 9, 2007, reference 01, is affirmed. 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/pjs